

# House Concurrent Resolution No. 20

## 94TH GENERAL ASSEMBLY

1878L.021

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### AN ACT

Relating to a prohibition on the implementation of the federal REAL ID Act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

**Whereas**, in May 2005, the United States Congress enacted the REAL ID Act of 2005 as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, PL 109-13, which was signed by President Bush on May 11, 2005, and which becomes effective May 11, 2008; and

**Whereas**, some of the requirements of the REAL ID Act are that states shall:

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

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

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

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

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

**Whereas**, use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including flying in a commercial airplane, making

28 transactions with a federally licensed bank, entering a federal building, or making application  
29 for federally supported public assistance benefits, including Social Security; and  
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31 **Whereas**, some of the intended privacy requirements of the REAL ID Act, such  
32 as the use of common machine-readable technology and state maintenance of a database that can  
33 be shared with the United States government and agencies of other states, may actually make it  
34 more likely that a federally required driver's license or state identification card or the information  
35 about the bearer on which the license or card is based will be stolen, sold, or otherwise used for  
36 purposes that were never intended or that are criminally related than if the REAL ID Act had not  
37 been enacted; and  
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39 **Whereas**, these potential breaches in privacy that could result directly from  
40 compliance with the REAL ID Act may violate the right to privacy secured in the Missouri  
41 Constitution for thousands of residents of Missouri; and  
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43 **Whereas**, the American Association of Motor Vehicle Administrators, the National  
44 Governors' Association, and the National Conference of State Legislatures have estimated in a  
45 September 2006 impact analysis statement that the cost to the states to implement the REAL ID  
46 Act will be more than \$11 billion over 5 years, and it is estimated that the implementation of the  
47 REAL ID Act will cost Missouri millions to fully implement the Act, none of such costs being  
48 paid for by the federal government; and  
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50 **Whereas**, for all of these reasons, the American Association of Motor Vehicle  
51 Administrators, the National Governors' Association, and the National Conference of State  
52 Legislatures in a letter dated March 17, 2005, to the majority and minority leaders of the United  
53 States Senate opposed the adoption of the REAL ID Act, but the opposition of those groups and  
54 the groups' request that Congress rely on driver's license security provisions already passed by  
55 Congress in the Intelligence Reform and Terrorism Prevention Act of 2004 was largely ignored  
56 by Congress; and  
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58 **Whereas**, the regulations that are to be adopted by the federal Department of  
59 Homeland Security to implement the requirements of the REAL ID Act have yet to be adopted  
60 and, in reality, will probably not become effective until the Spring of 2007, effectively giving the  
61 states only one year in which to become familiar with the requirements of the REAL ID Act, the  
62 implementation of the regulations, and compliance with such regulations; and  
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64 **Whereas**, the mandate to the states through federal legislation that provides no  
65 funding for its requirements to issue what is, in effect, a national identification card appears to

66 be an attempt to "commandeer" the political machinery of the states and to require the states to  
67 be agents of the federal government, in violation of the principles of federalism contained in the  
68 Tenth Amendment to the United States Constitution, as interpreted by the United States Supreme  
69 Court in *New York v. United States*, 488 U.S. 1041 (1992), *United States v. Lopez*, 514 U.S. 549  
70 (1995), and *Printz v. United States*, 521 U.S. 898 (1997):

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72 **Now, therefore, be it resolved** that the members of the House of  
73 Representatives of the Ninety-fourth General Assembly, First Regular Session, the Senate  
74 concurring therein, hereby refuse to implement the REAL ID Act and thereby protest the  
75 treatment by Congress and the President of the United States of the states as agents of the federal  
76 government and, by such protest, lead other state legislatures and governors to reject the  
77 treatment by the federal government of the 50 states by the enactment of the REAL ID Act; and

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79 **Be it further resolved** that the Missouri General Assembly finds that the  
80 enactment into law by the United States Congress of the REAL ID Act of 2005, as part of PL  
81 109-13, is inimical to the security and well-being of the people of Missouri, will cause unneeded  
82 expense and inconvenience to those people, and was adopted by the United States Congress in  
83 violation of the principles of federalism contained in the Tenth Amendment to the United States  
84 Constitution; and

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86 **Be it further resolved** that the Missouri General Assembly prohibits the  
87 State of Missouri from participating in the implementation of the REAL ID Act of 2005. The  
88 Missouri Department of Revenue, including the Division of Motor Vehicle and Drivers  
89 Licensing, is directed not to implement the provisions of the REAL ID Act of 2005 and to report  
90 to the Governor any attempt by agencies or agents of the federal Department of Homeland  
91 Security to secure the implementation of the REAL ID Act of 2005 through the operations of  
92 such Division and Department; and

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94 **Be it further resolved** that this resolution be sent to the Governor for his  
95 approval or rejection pursuant to the Missouri Constitution.

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