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On this date in 2008, the REAL ID Act was supposed to go into effect.

It didn't.

And it still isn't in full effect to this day.

Last December, the Department of Homeland Security (DHS) extended the enforcement deadline yet again for two more years, announcing it would not begin enforcing REAL ID requirements until May 2025.

In fact, the DHS has delayed the full implementation of REAL ID multiple times since Congress passed the act in 2005 with an original **implementation date of May 11, 2008**. Even with the federal government badgering states and using the threat of turning them into virtual no-fly zones to compel the adoption of REAL ID, the feds have found it incredibly difficult to coerce states into compliance.

The bottom line is due to intense opposition and foot-dragging by the states, REAL ID won't be in full effect until **at least** 17 years after the initial implementation date – and that's assuming the DHS doesn't extend the deadline again.

This proves that “the Father of the Constitution” was right. [Nullification works](#).

James Madison told us that a “refusal to cooperate with officers of the Union” would create “very serious impediments” for federal enforcement – in just a single state. If a number of states did the same, he said it “would present obstructions which the federal government would hardly be willing to encounter.”

This is exactly what has happened with REAL ID.

Background

President George W. Bush signed the REAL ID Act into law in 2005, essentially mandating a national ID system and putting the onus of implementation on each state.

But things didn't go smoothly from the beginning, and by any conceivable measure, the implementation of REAL ID has been an abject failure because of widespread state resistance and refusal to cooperate with the scheme.

Most states simply ignored the law, and many rebelled outright for several reasons, including privacy concerns, along with the fact that Congress didn't provide any funding for the mandates it expects states to implement. A large number of states simply chose not to act. New Hampshire, Missouri, Maine, Oklahoma and others took things a step further, passing laws **expressly prohibiting** compliance with the national ID standards.

Instead of forcing the issue, the feds issued waiver after waiver.

The DHS started extending deadlines almost immediately. On January 29, 2008, the agency issued REAL ID regulations that created a gradual implementation schedule. States would have until the mandated implementation date of May 11, 2008, to become "materially" compliant with the act but could ask for an extension valid until the end of 2009. It also set a date of May 10, 2011, for full compliance.

In December 2009, [the DHS extended the date](#) for "material compliance" because "a large majority of states and territories—46 of 56—have informed DHS that they will not be able to meet the Dec. 31 REAL ID material compliance deadline." At the time, it left the full compliance date in place.

That date came and went. In December 2012, the

DHS [announced](#) that only 13 states had met the law's requirements and that beginning the following month, all the other states would get a deferment.

"Beginning January 15, 2013, those states not found to meet the standards will receive a temporary deferment that will allow Federal agencies to continue to accept their licenses and identification cards for boarding commercial aircraft and other official purposes."

On and on it went, with new extensions and deferments year after year.

Ten years after its passage, more than half the states in the Union still had not complied with REAL ID. Of the 28 not in compliance, 21 had "extension waivers" until October 2016.

"There is an impasse," Edward Hasbrouck a privacy advocate with the Identity Project [told the New York Times](#) in December 2015. "There has been a standoff for more than a decade now. The feds have limited powers to coerce the states in this case."

In 2016, the feds [ratcheted up their bullying tactics](#), specifically threatening to stop accepting noncompliant licenses at TSA security checkpoints. This would effectively ground travelers from states that refuse to comply with the unconstitutional national ID scheme. On Oct. 13, 2016, the Department of Homeland Security (DHS) sent letters to five states denying their request for time extensions to bring their driver's licenses in compliance with REAL ID. At the time, the DHS set a 2018 deadline but still allowed for individual state extensions.

Instead of standing their ground, politicians began to cave. Idaho reversed its ban on Real ID implementation in 2016. Oklahoma followed suit the next year. At least six other states reversed course during this time period. Missouri

lifted its ban on Real ID in 2018.

With states clamoring to get compliant, the enforcement deadline was ultimately extended to October 2020 and then again to October 2021.

After almost yearly implementation delays since 2008, it appeared DHS was seriously going to start enforcing the act in 2021. But in yet another about-face in April of that year, the Department extended the October 2021 deadline to May 2023. At the time, DHS said only 43 percent of American driver's licenses were REAL ID compliant. That percentage has likely increased in the last two years, but the DHS did not provide any compliance data in its latest extension notice.

But even as of December 2022, only [17 percent of IDs in Kentucky were REAL ID compliant](#). The fact that the department has extended the deadline for another two years indicates a high level of non-compliance. The federal government does not want the political fallout it would face by effectively banning millions of people from domestic air travel.

And now the deadline stands May 2025.

We'll see how that works out.

The federal government's struggle to implement REAL ID for what will be at least 17 years reveals a dirty little secret – the feds can't do much of anything when states refuse to cooperate. This was [the blueprint James Madison gave](#) in *Federalist* #46 to resist "unwarrantable" or even unpopular federal acts. He said that a "refusal to cooperate with officers of the union" would create impediments and obstructions that would stymie federal actions.

This has certainly proved true when it comes to REAL ID.

But we also see another less pleasant reality in this saga. We can't trust politicians to hold the line. State legislators

and governors held the feds at bay for over a decade. It wasn't until they started to cave that REAL ID gained any momentum toward implementation. And even then, the federal government has still faced a rocky road.

Ultimately, it takes public action to stop government overreach. We can't just turn our heads and hope elected officials will do their job. That only happens when we keep the pressure on.

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