

## Remarks by Homeland Security Secretary Michael Chertoff and New York Governor Eliot Spitzer on Secure Ids

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**SECRETARY CHERTOFF:** Well, I'm pleased to be here with Governor Spitzer and I'm pleased to have reached agreement with New York on driver's license security. As you know, the Department of Homeland Security has been working hard to implement two important laws that will add greatly to our security. Both of them were recommended by the 9/11 Commission.

The first, the REAL ID Act, raises the bar for the security of driver's licenses so that we can actually rely on those documents. The REAL ID Act requires that the federal government accept only driver's licenses that clearly establish identity and legal presence in the United States.

The second, the Western Hemisphere Travel Initiative, or WHTI, requires passports or similar secure documents, including secure, enhanced driver's licenses, for everyone who crosses our borders, including the land border with Canada.

I'm pleased that New York has agreed to work with the Department of Homeland Security to move forward with both REAL ID and enhanced driver's licenses.

Let me expand. First, New York has announced a number of anti-fraud security measures to meet the requirements of REAL ID to make their driver's licenses more secure than they already are. The state is using advanced, facial recognition technology, central issuance procedures, and advanced document verification systems. These techniques will make New York licenses among the most secure in the country. The Governor has also committed to marking licenses that do not meet federal requirements, and to adopting a residency requirement to prevent misuse of New York licenses by people from out of state. This meets the requirement that REAL ID licenses be tamper-proof, secure and available only to U.S. citizens or those lawfully in the country.

We are pleased to announce that New York State will work with the Department of Homeland Security to launch a program to issue an enhanced driver's license in accordance with the Western Hemisphere Travel Initiative. This step, which several other states have already taken, will not only help ensure the security of New York's northern border, but will ensure the economic vitality of upstate New York and the border communities by promoting convenient and secure travel documents.

We have also listened to New York's concern about REAL ID, as we have with all states, and we hope to announce a final regulation shortly that provides a sensible solution from a cost, convenience and privacy perspective.

Now, REAL ID and WHTI licenses are quite obviously not available to people illegally in the United States, either because of illegal entry or overstay. To the extent that New York issues a class of license that is not based on lawful presence in the United States, those licenses will not comply with REAL ID or WHTI requirements. I do not endorse giving licenses to people who are not here legally.

But federal law does allow states to make that choice. What we can do is insist that licenses that do not meet federal requirements be clearly so labeled. New York has agreed to do that. In sum, that clarification, along with implementing REAL ID and enhanced driver's licenses, represents a major step forward for security, both for New York and for the country. Accordingly, I'm pleased to have reached this agreement.

**GOVERNOR SPITZER:** Thank you, Mr. Secretary. With the steps that the Secretary and I are announcing today, we will usher in the most secure licensing system in the nation; one that will offer New Yorkers maximum choice for driver's licenses to bring people into the system, uphold the strictest security standards, and ensure the economic vitality of upstate New York.

Let me walk through these steps. One, the recent change we made and the anti-fraud security measures we

tied to it will continue moving forward. However, given that as a result of the expected final REAL ID regulations that we understand will address our previous concerns, New York's license will already be close to compliance with the new federal requirements. So we now believe we can implement both REAL ID and our policy change at the same time.

Second, I'm also pleased to announce that after several months of discussions with the Department of Homeland Security, state DMV and federal DHS, we will all implement a program to develop an enhanced driver's license that can be accepted at our northern border instead of a passport, which will be required next year under federal law. This is a critical win for the upstate economy. While we never want to sacrifice security for anything, in the best of all worlds, we would also not have to sacrifice our economic vitality. We expect that this program will achieve both.

Third, we have spoken to DHS about our concerns with REAL ID, and they have assured us that their final regulations that are coming out soon will address the cost, convenience and privacy concerns we have mentioned in past comments. As we said months ago, it has always been our intention to implement REAL ID so long as DHS was responsive to our concerns. And we are confident that they have been. We are pleased that DHS has been so responsive to New York and all other states in accommodating our concerns to ensure that we have both national standards for licenses and also the ability to implement this in a way that is practical.

In sum, this will be the most secure licensing system in the country; one good for cross-border purposes, one for federal purposes, and one for non-federal purposes. While there may be some cost differences among the licenses, and additional requirements mandated by federal law for those licenses for federal purposes, we are on our way to offering New Yorkers the option of three secure licenses to drive and travel in this state, in this country, and throughout the Western Hemisphere. Thank you. A couple comments?

**SECRETARY CHERTOFF:** Yes, questions, and please tell us who you are and where you're from.

**QUESTION:** Would the licenses for undocumented immigrants require residency, and how is that different from --

**GOVERNOR SPITZER:** Yes, yes. As I've said, and I went on in some length about this in a speech at NYU I guess two Fridays ago now, one of the essential elements of getting any license is establishing residency. And the technical measures we have installed to ensure that will be, I think, above and beyond what any other state has done, we are crafting those as we not only examine the best practices that we can discern from the 27 or so other states that we think are in our sort of same category of specificity on this, but we are putting those in place right now. And this is one of the issues the Secretary and I spoke about. Obviously, you don't want New York -- people to come to New York to get a license. We are demanding that people be able to prove residency. That has always been part of that plan.

**QUESTION:** And Secretary Chertoff, you say in your statement that you would prefer not to give licenses to undocumented immigrants, but the states have the right to do that. Does this reassure you? Will this interfere with your enforcement of immigration?

**SECRETARY CHERTOFF:** Well, I think -- obviously, I've said I don't endorse giving licenses to illegals, but the law permits states to make that choice. What is important and what is within the domain of what my Department has the right to insist upon is, first of all, participation in REAL ID as a very positive step. Having enhanced driver's licenses, which I think addresses our security concerns and citizenship concerns, but also makes it more convenient to go back and forth across the border. And I'm sensitive to the fact that people in upstate New York and other border communities are worried about things that would impede that.

And finally, as I said, obviously, there has to be a clear differentiation on the face of a license between licenses that are valid for federal ID and those that are not so there can't be any confusion or misleading about it. And I think this agreement addresses those concerns that fall within my authority.

**GOVERNOR SPITZER:** Let me just echo that. I think the Secretary is exactly right in what he said. This is an option that is available to states pursuant to federal law. I have said from the very beginning that this is a policy option that I agree with, obviously, which is why we have made that choice -- but not to the detriment of security.

And that is why we have worked so diligently with the Secretary and DHS to put in place those security measures and filters and steps and processes that will permit us to, as you've just heard, New York will have among the most secure driver's licenses in the nation because we are being so strict on the issue of

residency, which you just raised, or facial identification, etcetera, etcetera. So we are putting in place those policies that will provide the security that we also are obviously insistent on.

**QUESTION:** How are you, sir? So what is this going to actually look like? I'm a little confused. We're talking about two different licenses or three? And what will -- how will they appear different?

**GOVERNOR SPITZER:** The only difference -- I will confess, I don't know what the EDL, the enhanced driver's license, will physically look like. That we will actually be able to begin issuing, we hope sometime in the next couple of months.

**QUESTION:** But it will be like visually -- somebody will be able to tell the difference --

**GOVERNOR SPITZER:** The only difference -- as the Secretary said, the only difference between the REAL ID license and the non-REAL ID license, federal versus the non-federal, will be the demarcation in print that will say, on the non-REAL ID license, "Not valid for federal identification."

**QUESTION:** Okay. So are there three different types?

**GOVERNOR SPITZER:** Yes. The third is the enhanced driver's license, primarily which will be sought by those who live proximate to the Canadian border, most probably in the Buffalo region, but the entirety of the Canadian border, where this will help with WHTI, the Western Hemisphere Travel Initiative. And that will look essentially the same, but will have certain other metrics and biometrics and maybe an RFID card built in.

**QUESTION:** So you've got the REAL ID-compliant one. And then you've got the basic one --

**GOVERNOR SPITZER:** Correct.

**QUESTION:** -- that an illegal alien could get a driver's license.

**GOVERNOR SPITZER:** Or, I mean -- well, yes, but that's not necessarily the nomenclature. In other words, you have individuals who will choose to get a federal license, individuals who will choose to get a non-federal license for a multitude of purposes. The visual distinction between the two will be merely that statement, which the Secretary rightly pointed to, is required by federal law, by the REAL ID Act, that the non-federal driver's license say on it, "Not valid for federal ID."

**QUESTION:** And the -- I'm sorry -- the bottom of your license --

**GOVERNOR SPITZER:** The enhanced driver's license will be --

**SECRETARY CHERTOFF:** Let me help with that. Think about it this way: Every enhanced driver's license complies with REAL ID. It'll have some additional features that allow you to cross the border. It will have, like, for example, an RFID chip, which will not be in every REAL ID license, but will be in licenses that want -- if you want to go back and forth through the border quickly.

So both REAL ID and enhanced driver's licenses requires secure proof of identity, and you have to be lawfully present in the country. It's just that enhanced driver's licenses will have -- there will be a little chip that you will see. I don't know visible it will be --

**GOVERNOR SPITZER:** I'm not sure it's going to be visible.

**SECRETARY CHERTOFF:** Yes. And there may be some -- a machine-readable zone, which is a series of letters and numbers. So it may be some visual distinction. Both of those, however, will be restricted to those lawfully in the country. The remaining licenses that New York issues will have to say, "Not valid for federal purposes." So that will the distinction there.

**QUESTION:** And just to be clear. That will not allow you to get on an airplane?

**SECRETARY CHERTOFF:** Correct.

**QUESTION:** That will not allow you to cross a border?

**SECRETARY CHERTOFF:** Correct.

**QUESTION:** What else will it not allow you to do?

**SECRETARY CHERTOFF:** It just -- it will not -- for any federal purpose --

**QUESTION:** It just allows you to drive.

**SECRETARY CHERTOFF:** Well, I can only tell you -- speak for the federal government. For any federal purpose, it will not be valid.

**QUESTION:** Two questions. First is logistical -- from a logistical standpoint, are you confident that you could meet your earlier deadline of December of getting these three IDs up and running, or is there going to be a stopgap?

**GOVERNOR SPITZER:** There will be -- as I said in the statement, because of the -- what we view as the very affirmative new understanding of what REAL ID actually necessitates, we believe that that timetable has been accelerated from what we had believed it would be, and we can move forward with both REAL ID and the new policy of driver's licenses for undocumented immigrants at the same time, sometime probably middle/late next year. So there will be perhaps some delay.

We have begun -- we thought we could begin to implement the policy late this year or early next year. There will be a few months gap -- lag in order to integrate these two policies simultaneously.

**QUESTION:** So what happens during the gap? What do you have to do -- if somebody --

**GOVERNOR SPITZER:** As of right now? Right now, policies continue as they have been for years. In other words, the new policies will begin to kick in next year when we can move simultaneously on these policies.

**QUESTION:** And then the second question is, you know, you had expressed concerns that having a two- or, in this case, a three-tiered system -- the license that an illegal or undocumented person might use could be like a scarlet letter. Is this, in effect --

**GOVERNOR SPITZER:** No, well, in fact, I had always said -- not always said -- I had said very clearly that -- a couple of points I have made consistently throughout. One, I anticipated New York would participate in REAL ID. If you go back to my statements, whether at NYU or elsewhere, as this policy has been discussed, I've said, participating in REAL ID is appropriate and important once we understand what the federal regs and rules are. Now that we have a better understanding in terms of cost and integration with our current systems, we look forward to doing that very quickly.

Second, if you take that as the premise, the federal statute that creates the federal -- the REAL ID requires that there be a demarcation on the non-federal license that says, just as we've discussed, "Not valid for federal ID." So that distinction necessarily was going to be there. I had never expressed great concern that that distinction was important. What I had said was that we would create the two choices for New Yorkers, and that those choices would be presented to them. As seven other states -- you know --

**QUESTION:** And are you concerned that if someone who maintains the lesser license, that they are going to be in effect a target for report?

**GOVERNOR SPITZER:** No, not at all, because there will be many reasons that people might seek that license as opposed to federal license documentation that they don't want to bring. They may have a passport; 35 percent of the public already has a passport. They may say if there's an extra cost involved in getting the REAL ID license, they don't want to go to that effort. They will take their passport to the airport when they want to fly.

So people will make that choice for many reasons. It will not be logical to presume that merely because one has the non-federal license that he or she is not legally here.

**QUESTION:** I'm curious how much each of you believe this is a template for the rest of the country, as they try and adjust to REAL ID.

**SECRETARY CHERTOFF:** Well, I'm not going to predict or suggest that other states are going to have licenses for people here illegally, but I certainly think that in terms of getting states to enlist in REAL ID, we have begun to see more and more states get on board with REAL ID. And I'm appreciative that New York is getting on board with REAL ID, because New York is obviously a very big state.

And there was an initial pushback, and I understand the money remains an issue, which we have to work on,

but there was also kind of a policy or an ideological pushback on REAL ID from some quarters, but I actually think now people see the wisdom of REAL ID. You know, this is a 9/11 Commission recommendation. And it's not a hard concept to understand. We want to know that the person whose identity is on the license for REAL ID is who they say they are; they're not someone pretending to be another individual. And second, we want to make sure that the person is lawfully present in the United States. And I think that REAL ID gives us both of those requirements.

And I think this agreement, and other agreements we've gotten from other states, as well as agreements we're working on, tell me that the tide is moving more rapidly in favor of REAL ID. We have taken on board comments about cost and how to stage it out in a way that's efficient so that we don't create a logjam, but I think the principle is increasingly being one that is subscribed to by governors around the country.

**GOVERNOR SPITZER:** Let me add to that, because I think the Secretary is correct. There had been significant concern expressed by governors, and I will tell you when I would attend the meetings of the National Governors Association, the concern with REAL ID was, to use the parlance, it was an unfunded mandate that would impose potentially enormous cost upon its implementation, problems of an unknown magnitude, what we now appreciate, based upon, I think, the very wise changes and thoughtfulness with which DHS has approached what implementation really requires. We can implement -- and the Secretary has indicated that we will already be in substantial compliance, based upon what we already do and what we already intend to do. So I think other states will look at this and say, the cost issues can be addressed, and it is, as the Secretary said, in that context, good policy, from a security perspective.

From the other side, I think that -- as people have not necessarily focused upon -- seven other states, prior to my announcement of our decision to grant licenses to undocumented immigrants, seven other states have been doing that throughout, for years. And so I think that what this will show is that, as I have said, making a decision to do so is not incompatible either with security, which is something I have felt very deeply and would not have moved in that direction had I believed otherwise, nor is it incompatible with REAL ID. We can make these policies converge in a way that solves these multiple problems, and that is what I think -- whether it's a template, I'm not going to predict the behavior of others, but I think it proves that at a policy level, we can do all of this simultaneously.

**QUESTION:** You mentioned cost. That's been the biggest complaint about REAL ID. What will it cost in New York to implement this, and who will pay for that?

**GOVERNOR SPITZER:** I cannot give you a precise dollar figure, but we are comfortable that it will be a reasonable expenditure, in terms of the facial photographic equipment and all the high-tech stuff -- the RFID chip --

**SECRETARY CHERTOFF:** RFID -- enhanced driver's license.

**GOVERNOR SPITZER:** But those which will be increasingly commonplace in our security system, those costs will be acceptable and we will be able to budget for them.

**SECRETARY CHERTOFF:** Let me say about secure identification, because, I mean, this is a benefit for the public. To have a REAL ID-compliant license is a much safer way to make sure people don't steal your identity and don't masquerade as you. I mean, right now -- and I remember going back to when I was in college -- it's not hard using existing licenses in a lot of states for a teenager to fabricate a license and pretend to be somebody that they're not. And I think people who are operating bars in college towns all over the country are aware of that.

Unfortunately, stealing identity can be used for more nefarious purposes, too. So to the extent that we have states getting on board with REAL ID and we have security and the requirements of REAL ID embedded in the licenses, including better cardstock, harder tamper-proof, harder to forge, it's not going to be impossible, but it's going to be very, very much harder to steal someone's identity. And I think that's actually a benefit to the American public.

**QUESTION:** Mr. Secretary, did you -- I guess this is a two-part question -- how hard did you try to talk the Governor out of giving undocumented aliens licenses? And are you trying to talk other states out of it as well?

**SECRETARY CHERTOFF:** Let me be clear: First of all, I never get into discussions I have with people that are private. I think I've been as clear as I can be: I do not endorse and I do not think it's a good idea to give undocumented workers licenses or ID of any kind.

But, again, Congress has spoken to the issue; the option is open to the states. So I think my focus has got to be on the things that are my responsibility, and my responsibility is to get REAL ID implemented as widely as possible in this country, and I appreciate the fact that the Governor has worked with me to make sure that a major state will have REAL ID-compliant licenses and will have enhanced driver's licenses.

**QUESTION:** You were just saying that you don't think it's a good idea. Can you expand on why? And then also -- if any of your agents in the country were to, in the course of their duties, come across someone with a non-federally approved ID, would they have sufficient grounds to run that person through the system and check on their immigration status?

**SECRETARY CHERTOFF:** Well, the answer to the second question is, I can't speculate about all the different ways in which people encounter people with documents of various kinds. So I'm going to assume the law enforcement authorities, whether they're federal, state or local, are going to do their job and investigate what has to be investigated and use all the tools available.

Look, it's not hard to understand. Illegal migrants or people who overstay are in violation of the law. And so I'm -- our position is that we do not endorse anything that's going to make or facilitate their ability to operate when they're here illegally, or to facilitate their ability to remain when they're here illegally.

But as I say, again, Congress passing the law has left the door open to states to make their own judgments based on state policies. My responsibility is to enforce the immigration laws, and from that standpoint, I have to say to you, I don't agree with giving illegal -- people who are here illegally licenses. But the law is what it is.

**QUESTION:** I'm having a little trouble understanding the news here. Governor Spitzer, you said before, you indicated before that you are -- despite the cost and the trouble -- would be -- would move to REAL ID-compliant IDs. Secretary Chertoff, you oppose licenses for immigrants, but you're still saying you do -- this enhanced driver's license for upstaters in particular was under discussion, and it was believed moving to conclusion. So who's moved? What is --

**SECRETARY CHERTOFF:** Maybe there was no news, and we got -- (laughter.) We wasted a morning.

**GOVERNOR SPITZER:** Here's what I think. I think -- the news is that the various principles are not only not intentional -- let me state it affirmatively -- that they coexist peacefully. We can, as a state, as the Secretary said, opt to give driver's licenses, one of the three tiers of driver's licenses, to undocumented immigrants, do so lawfully, and with the highest level of security.

Simultaneously, we can and will participate and comply with REAL ID. Simultaneously, we will have an enhanced driver's license. So while people may have seen tensions among these three policy objectives, the reality is they coexist. We will have the highest level of security, which is our first objective, necessary objective; we will be able to provide a driver's license to those who are here so they can be in our databases, participate in the economy perhaps more completely; we will be able to have an EDL, enhanced driver's license, for those who care most about it, which is those proximate to the Canadian border -- all of these simultaneously, without the tensions that others had anticipated.

**SECRETARY CHERTOFF:** I would say that -- I wouldn't underestimate the importance of the enhanced driver's license. I was up in Buffalo -- and I've spoken to the Governor about this previously, and I've spoken with members of Congress on this -- the whole issue of enhanced driver's licenses, which was being talked about, getting that agreed to is actually quite a big deal. It's going to be a big deal up in Buffalo; I think it's going to be a big deal on the Canadian side of the border. So I don't want -- even though I think we had indicated we were hoping to get the enhanced driver's license, I actually think that is a really big good news story for people in New York.

**QUESTION:** On the IDs for immigrants, will they also have to pay -- will the photographs and the tamper-proof mechanisms you're describing for the REAL ID licenses also be used for that?

**GOVERNOR SPITZER:** Oh, yes, and I laid that out -- we can get you a copy of the speech I gave at NYU two Fridays ago, which, you'll read it all (inaudible), but it goes through the precise security steps that we are imposing, because fundamental to a driver's license security system is the notion of one person, one license. The way you guarantee that is by putting in place those precise technologies and screening systems to make sure that you do not have multiple names, IDs for one person, and the predicate to that is the facial recognition technology we're putting in place.

**QUESTION:** Will law enforcement have access to that database?

**GOVERNOR SPITZER:** Otherwise it wouldn't work.

Last question.

**QUESTION:** Secretary Chertoff, earlier this week, FEMA had a news conference with several FEMA employees posing as reporters. Two questions: Why did this happen? And what action, if any, is being taken as a result of that event?

**GOVERNOR SPITZER:** Are you a FEMA employee? (Laughter.)

**SECRETARY CHERTOFF:** I can tell -- I can't explain why it happened. I think it was one of the dumbest and most inappropriate things I've seen since I've been in government. I have made it unambiguously clear that nothing like this -- first of all, I didn't, obviously, know it was going to happen; second, I made it unambiguously clear, in Anglo-Saxon prose, that it's not to ever happen again, and there will be appropriate disciplinary action taken against those people who exhibited what I regard as extraordinarily poor judgment.

**QUESTION:** Does that mean they're going to get fired, sir, in Anglo-Saxon parlance?

**SECRETARY CHERTOFF:** There will be appropriate disciplinary action. I'm not going to tell you exactly what's going to be, and the law actually prohibits me from doing that.

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