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MEMORANDUM

TO: Senate Communications and Technology Committee

FROM: Andy Hoover, Legislative Director

DATE: June 9, 2009

RE: SUPPORT FOR SBs 621, 622, and 623

On Wednesday, the Senate Communications and Technology Committee is scheduled to consider Senate Bills 621, 622, and 623. Pennsylvanians cherish their right to privacy, and this package of bills puts into place greater protections for Pennsylvanians of their personal data. The American Civil Liberties Union of Pennsylvania supports all three bills. On behalf of the 15,000 members of the ACLU of Pennsylvania, I ask you to please vote “yes” on these bills.

SB 621 blocks the commonwealth’s participation in the federal Real ID program. Passed in 2005 as part of a funding bill for American troops overseas and victims of the 2004 tsunami in South Asia, Real ID imposes standards for state drivers’ licenses that infringe on the privacy of all Americans and expose all license holders to an increased risk of identity theft.

Real ID requires the DMVs of the 56 licensing jurisdictions to connect their databases, creating a massive new national database. A security breach at any DMV office anywhere in the country would leave the information of all license holders in Pennsylvania exposed.

Real ID also requires license applicants to show a long list of documents to verify identification. PennDOT already requires applicants to produce certain documents, but Real ID goes further by requiring PennDOT to verify the legitimacy of the documents with the issuing agency. If PennDOT must verify every document presented by license applicants, the process of getting a driver’s license will become much longer and much more arduous.

Real ID also mandates the department to keep electronic and hard copies of the documents on file for a period of years. This is another example of how Real ID exposes Pennsylvania license holders to potential identity theft as PennDOT stores copies of key personal documents like birth certificates and Social Security cards. Burglaries have occurred at DMVs around the country, including at a PennDOT

office in Wilkes Barre in 2006. There have also been cases of corrupt DMV officials selling information to criminals. Real ID is a honey pot for identity thieves.

For the privilege of a decrease in privacy and increased exposure to identity theft, Pennsylvanians will be forced to spend hundreds of millions of dollars for Real ID. PennDOT has estimated that the cost to implement Real ID will be \$100-\$120 million and that maintaining the program will cost \$40-\$50 million annually. Meanwhile, Congress has shown no appetite to fund the program. So far, Congress has designated just over \$100 million for Real ID implementation to be split among the 56 licensing jurisdictions.

Thirteen states have passed bills like SB 621 and blocked the implementation of Real ID, and sometime this week Oregon is likely to become the 14th state to do so as the Oregon state legislature has passed an opt-out bill that is awaiting the governor's signature. Last June, the Pennsylvania House of Representatives unanimously passed a bill similar to SB 621, but the session ended before the Senate had an opportunity to consider it.

Real ID cannot function without state participation. If you pass SB 621, you will send a loud and clear message to Congress and the Obama administration that Real ID is unacceptable.

SBs 622 and 623 also protect the personal data of Pennsylvanians. SB 622 blocks businesses from collecting information from individuals' drivers' licenses, which is technologically possible. Media reports indicate that businesses like bars and clubs do this regularly without informing patrons that they are collecting the information.

SB 623 ensures that individuals have the opportunity to not participate in government programs that collect biometric data such as DNA, fingerprints, etc. Mass DNA collection is an example of the kind of action that SB 623 would stop. Many jurisdictions around the country have conducted DNA collection of all persons within a particular geographical area. As one example, police in Truro, Massachusetts, collected the DNA of every male resident in 2005 to solve an unresolved homicide. This kind of sweep is a blatant violation of the Fourth Amendment right to be free from unreasonable searches-and-seizures. It should also be noted that SB 623 includes a law enforcement exception to allow police to conduct investigations. The exception ensures that law enforcement attains the necessary warrants before collecting biometric data.

This package of bills further strengthens the right to privacy of all Pennsylvanians. Please vote "yes" for SBs 621, 622, and 623.