

HB

2990

Alaska State Legislature

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Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism
Committee

Education Committee

Joint Armed Services Committee

Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



A Communication From
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Sponsor Statement HB 290

In 2005, Congress passed sweeping legislation that will have major implications for the way in which state governments issue driver's licenses and identification cards. This legislation, called the "Real ID Act, sets national standards and mandates that states enhance the security and data integrity of driver's licenses and identification cards. HB 290 is designed to bring Alaska into compliance with the new federal Real ID Act.

Currently the Alaska Division of Motor Vehicles, through Standard Operating Procedures, has required that proper documentation be provided to establish that an applicant is either a U.S. citizen or legally present in the United States for the purposes of issuing an identification card or drivers license. HB 290, puts into statute what DMV is currently requiring procedurally.

Secondly, as required by the REAL ID Act, HB 290 establishes that in order to issue temporary licenses or temporary ID cards, that will be acceptable to the federal government for identification purposes, there must be an expiration date of the identification card or driver license to coincide with the length of stay in the United States. If the period of authorized stay is indefinite, the expiration date of the license is one year from the date of issue.

A federal agency may not accept a driver's license or personal identification card after May 11, 2008, unless the state has been certified by the U.S. Department of Homeland Security in consultation with the U.S. Department of Transportation to meet the requirements of the law.

HB 290 is needed to enhance the security of the driver's license and identification card due to increasing problems of identity theft and fraud. Driver's licenses and state issued identification cards have been used as proof of identity more often than proof of one's ability to drive safely. Holding one of these credentials provides access to an ever-increasing number of privileges and services, from obtaining credit to cashing checks, buying or leasing cars and boarding airplanes.

Alaskans deserve the right to be assured motorists driving with Alaska driver's licenses are legally in the United States and we know their identities

Fiscal Note

24-LS0981Y
Luckhaupt
2/2/06

CS FOR HOUSE BILL NO. 290()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE LYNN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to issuance of identification cards and to issuance of driver's licenses;**
2 **and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 18.65.310 is amended by adding new subsections to read:

5 (h) The department may not issue an identification card under (a) of this
6 section to a person who has not presented to the department valid documentary
7 evidence that the person is a citizen of the United States, a national of the United
8 States, a legal permanent resident of the United States, or a conditional resident alien
9 of the United States.

10 (i) Notwithstanding (h) of this section, the department may issue an
11 identification card to a person who presents in person valid, documentary evidence of
12 the person's legal status and presence in the United States. The identification card
13 authorized under this subsection is valid only during the period of the time of the
14 person's authorized stay in the United States and must clearly indicate that expiration

1 date. If the period of authorized stay is indefinite, the expiration date for the
2 identification card is one year from the date of issue. The identification card
3 authorized under this subsection may be renewed only upon presentation of valid,
4 documentary evidence that the status by which the person qualified for the temporary
5 identification card has been extended by the proper United States government
6 authority. The department may by regulation specify what is valid, documentary
7 evidence under this subsection except that the department may not specify that a
8 matricula consular card is valid, documentary evidence.

9 * Sec. 2. AS 28.15.031(b) is amended to read:

10 (b) The department may not issue an original or duplicate driver's license to,
11 nor renew or reinstate the driver's license of, a person

12 (1) whose license is suspended, [OR] revoked, or cancelled, or who is
13 disqualified from obtaining a license, except as otherwise provided in this chapter;

14 (2) who fails to appear in court for the adjudication of a certain
15 vehicle, driver, or traffic offense when the person's appearance is required by statute,
16 regulation, or court rule;

17 (3) who is an habitual user of alcohol or another drug to such a degree
18 that the person is incapable of safely driving a motor vehicle;

19 (4) [REPEALED

20 (5)] when the department, based upon medical evidence, has
21 determined that, because of the person's physical or mental disability, the person is not
22 able to drive a motor vehicle safely;

23 (5) [(6)] who is unable to understand official traffic control devices as
24 displayed in this state or who does not have a fair knowledge of traffic laws and
25 regulations, as demonstrated by an examination;

26 (6) [(7)] who has knowingly made a false statement in the person's
27 application for a license or has committed fraud in connection with the person's
28 application for, or in obtaining or attempting to obtain, a license, or who has not
29 applied under oath on the form provided for the purpose of obtaining or attempting to
30 obtain a license or permit;

31 (7) [OR (8)] who is required under AS 28.20 to furnish proof of

1 financial responsibility and who has not done so; or

2 (B) who has not presented to the department

3 (A) valid documentary evidence that the person is a citizen
4 of the United States, a national of the United States, a legal permanent
5 resident of the United States, or a conditional resident alien of the United
6 States; a person who is seeking a renewal of, duplicate of, or change of
7 legal name on a license is presumed to meet the requirements of this
8 subparagraph if the license has not expired or been cancelled, suspended,
9 or revoked and the person has not been disqualified from obtaining a
10 license; if the department has been notified by a local, state, or federal
11 government agency that the person seeking a renewal of, duplicate of, or
12 change of legal name on a license is not a citizen of the United States or is
13 not legally in the United States, then the presumption available in this
14 paragraph does not apply; the department may by regulation specify what
15 is valid, documentary evidence under this subparagraph except that the
16 department may not specify that a matricula consular card is valid,
17 documentary evidence; or

18 (B) in person valid, documentary evidence of the person's
19 legal status and presence in the United States; a license issued under this
20 subparagraph may be renewed only upon presentation of valid,
21 documentary evidence that the status by which the person qualified for
22 the license has been extended by the proper United States government
23 authority; a change of name for a license issued under this subparagraph
24 may be made only upon presentation of valid, documentary evidence that
25 the person's name has been changed with regard to the status by which
26 the person qualified for the license; a duplicate license for a license issued
27 under this subparagraph may be issued only upon presentation of valid,
28 documentary evidence that the person's status by which the person
29 qualified for the license remains valid and in effect; the department may
30 by regulation specify what is valid, documentary evidence under this
31 subsection except that the department may not specify that a matricula

1 consular card is valid, documentary evidence.

2 * Sec. 3. AS 28.15.101(a) is amended to read:

3 (a) Except as otherwise provided in this chapter and in (d) of this section, a
4 driver's license expires on the licensee's birthday in the fifth year following issuance of
5 the license. A license may be renewed within one year of its expiration upon proper
6 application, payment of the required fee, and except when a license is renewed under
7 (c) of this section, successful completion of a test of the licensee's eyesight.

8 * Sec. 4. AS 28.15.101 is amended by adding a new subsection to read:

9 (d) A driver's license issued under AS 28.15.031(b)(8)(B) is valid only during
10 the period of the time the person is authorized to stay in the United States and must
11 clearly indicate the expiration date. If the period of authorized stay is indefinite, the
12 expiration date of the license is one year from the date of issue.

13 * Sec. 5. This Act takes effect January 1, 2007.

#1

24-LS0981\Y.2
Luckhaupt/Cook
4/3/06

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: CSHB 290(), Draft Version "Y"

1 Page 1, line 5:

2 Delete "not"

3

4 Page 1, line 6:

5 Delete "not"

6

7 Page 1, line 10:

8 Delete all material.

9 Insert "(i) The department may issue an"

10

11 Page 2, following line 8:

12 Insert a new subsection to read:

13 "(j) The department may issue an identification card under (a) of this section
14 to a person who does not present documentary evidence under (h) or (i) of this section.
15 The identification card must be different in color from those issued under (h) or (i) of
16 this section and must bear on its face the following notice: "This identification card
17 may not be accepted by any federal agency for federal identification or any other
18 official purpose.""

19

20 Page 2, line 31:

21 Delete "(7) [OR (8)]"

22 Insert "or

23 (7) [(8)]"

1

2 Page 3, line 1:

3 Delete "or"

4 Insert "."

5

6 Page 3, line 2, through page 4, line 1:

7 Delete all material and insert:

8 **** Sec. 3. AS 28.15 is amended by adding a new section to read:**

9 **Sec. 28.15.033. Form of drivers' licenses.** (a) The department shall issue,
 10 renew, or reinstate to an otherwise qualified person a driver's license that may be used
 11 as identification by a federal agency if the person presents to the department valid
 12 documentary evidence that the person is a citizen of the United States, a national of
 13 the United States, a legal permanent resident of the United States, or a conditional
 14 resident alien of the United States. A person who is seeking a renewal of, duplicate of,
 15 or change of legal name on a license is presumed to meet the requirements of this
 16 subsection if the license has not expired or been cancelled, suspended, or revoked and
 17 the person has not been disqualified from obtaining a license. If the department has
 18 been notified by a local, state, or federal government agency that the person seeking a
 19 renewal of, duplicate of, or change of legal name on a license is not a citizen of the
 20 United States or is not legally in the United States, then the presumption available in
 21 this subsection does not apply. The department may by regulation specify what is
 22 valid, documentary evidence under this subsection, except that the department may not
 23 specify that a matricula consular card is valid, documentary evidence.

24 (b) The department shall issue, renew, or reinstate to an otherwise qualified
 25 person a driver's license that may be used as identification by a federal agency if the
 26 person presents to the department in person valid, documentary evidence of the
 27 person's legal status and presence in the United States. A license issued under this
 28 subsection may be renewed only on presentation of valid, documentary evidence that
 29 the status by which the person qualified for the license has been extended by the
 30 proper United States government authority. A change of name for a license issued
 31 under this subsection may be made only on presentation of valid, documentary

1 evidence that the person's name has been changed with regard to the status by which
2 the person qualified for the license. A duplicate license for a license issued under this
3 subsection may be issued only on presentation of valid, documentary evidence that the
4 person's status by which the person qualified for the license remains valid and in
5 effect. The department may by regulation specify what is valid, documentary evidence
6 under this subsection, except that the department may not specify that a matricula
7 consular card is valid, documentary evidence.

8 (c) The department shall issue, renew, or reinstate a driver's license to an
9 otherwise qualified person who does not present documentary evidence under (a) or
10 (b) of this section. The license must be different in color from those issued under (a) or
11 (b) of this section and must clearly bear on its face the following notice: "This driver's
12 license may not be accepted by any federal agency for federal identification or any
13 other official purpose."
14

15 Renumber the following bill sections accordingly.

16

17 Page 4, line 9:

18 Delete "AS 28.15.031(b)(8)(B)"

19 Insert "AS 28.15.033(b)"

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 290
 () Publish Date: _____

Revision Date/Time (Note if correction): 3/3/06 - 1:00 p.m. Dept. Affected: Administration
 Title: "An Act relating to issuance of Identification Cards and RDU Division of Motor Vehicles
and the issuance of Driver's Licenses'..." Component: Motor Vehicles
 Sponsor: Rep. Lynn
 Requester: (H) State Affairs Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	20.0	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	20.0	0.0	0.0	0.0	0.0	0.0
TOTAL	20.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

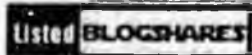
ANALYSIS: (Attach a separate page if necessary)

This bill is designed to bring Alaska into compliance with the new federal Real ID Act. While all of the details of the Act are currently being created through the rulemaking committee, this bill includes the 2 major components of the Act: all DL/ID applicants must be either US citizens or be able to establish their legal presence; and those persons with 'time-limited' legal status may not receive a DL/ID with an expiration date later than the allowable length of stay.

The cost associated in FY 07 is to make major changes in our database (ALVIN) to accept these new expiration dates and other verification fields. Other costs may be associated with the Real ID Act that will not be noted until later.

Prepared by: Duane Bannock, Director Phone (907) 269-5008
 Division: Motor Vehicles Date/Time 3/3/2006 1:00pm
 Approved by: Mike Tibbles, Deputy Commissioner Date 3/3/2006
 Agency: Department of Administration

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« [WMUR reports on RFID chips](#)
[Massive Coalition Protest Against National ID](#) »

New Hampshire House votes to defy Federal ID

12th March 2006

Libertarians in New Hampshire are celebrating after the New Hampshire House of Representatives voted 270-84 to refuse cooperation with the hated "Real ID" act. Real ID is a Federal mandate which attempts to force states into a standardized drivers license system at taxpayer expense. Freedom advocates argue it would be at the expense of privacy as well.

"Give me liberty or give me death," said State Rep Neal Kurk, speaking in favor of the bill on the House floor. The chamber roared with applause.

House Bill 1582 forbids all state agencies from participation in Real ID mandates, and asserts that Real ID "is contrary and repugnant to Articles 1 through 10 of the New Hampshire constitution..."

The lopsided anti-Federal vote was a shock even to proponents of the bill. Real ID passed the U.S. Senate 100-0 last year and generated little debate. But as states like New Hampshire have taken a closer look at what it will require of them, liberty activists and local government officials have been teaming up to draw a line in the sand between Washington and their own states.

New Hampshire in particular has become increasingly restive since 2003, when it became a migratory destination for "Free Staters," libertarian activists who move into the state to fight for freedom.

HB 1582 next goes to the New Hampshire Senate; if it passes there it will have to be signed by the Governor.

This entry was posted on Sunday, March 12th, 2006 at 2:27 pm and is filed under [New Hampshire](#), [Politics](#), [Liberty](#), [National ID](#). You can follow any responses to this entry through the [RSS 2.0 feed](#). You can leave a response, or [trackback](#) from your own site.

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CONTRA COSTA TIMES

Posted on Wed, Jan. 11, 2006

Drop in foreign enrollment worries U.S. educators

BY MATT KRUPNICK
Knight Ridder Newspapers

WALNUT CREEK, Calif. - It used to be that the choice between a U.S. or foreign university was a no-brainer for top international students. If they gained admission to Harvard or Berkeley, their choice was made.

But the combined effects of the Sept. 11 attacks and other countries' higher-education improvements have concerned U.S. educators who fear a drop in foreign student enrollment would threaten college engineering and science departments.

"Universities could not, in some cases, conduct research or teach classes without their very talented foreign students," said Peggy Blumenthal, executive vice president of the Institute of International Education, which tracks statistics on international students.

In the mid-1950s, according to the institute, U.S. universities were attracting more than 30,000 international students per year. Last year, more than 500,000 attended U.S. institutions, generating about \$13 billion in tuition.

Some recent attendance figures have concerned educators, however. Last year, colleges and universities reported the lowest international undergraduate enrollment since 1999, while graduate enrollment dropped to its lowest level since 2000.

The United States' universities have long held a commanding lead in educating the world's top scientists and engineers. Many institutions, inspired by the impressive German university system, began fortifying doctoral programs in the late 19th century.

Education experts say increased visa hassles and other U.S. policies have sent the wrong message to the world's students.

"There's just a whole bunch of things that make people say, 'Wait a minute, I don't have to go through any of this to study anywhere else,'" said Victor Johnson, who directs public policy for the Association of International Educators in Washington, D.C. "It's simply an undeniable fact that the United States isn't a popular place in the world, and that does affect people's propensity to study here."

The University of California-Berkeley enrolls nearly 2,700 international students from more than 100 countries, but enrollment - particularly at the graduate level - still has yet to bounce back to its pre-Sept. 11 numbers. The campus had a high of 950 international graduate students in 1999, but that number fell to 507 in 2002 before climbing to around 870 the past two years.

Nearly 600 of those foreign graduate students are in Berkeley's engineering school - comprising 39 percent of the student body - and school and business officials fear a further decline could harm the technology industry. Universities across the country have struggled to attract American-born students to the math and science fields, but their efforts have largely failed.

Industry leaders say they appreciate the international graduates from the University of California and other U.S. colleges, but the success those alumni have generated could be having adverse effects as well.

"Certainly the advantage of having global competition and the rest of the world becoming more prosperous is that now there's a larger talent pool out there," said Dennis Ciria, director of education and work force development for the Silicon Valley Leadership Group. "The disadvantage is now there's more of an incentive to stay in your home country."

While the visa process - criticized as cumbersome and unfriendly following the terrorist attacks - has been improved over the past couple of years, educators say they are facing a new and growing challenge: competition.

China is expected to award more doctorate degrees than the United States in five or 10 years, and India is also producing more doctorates than ever before. Australia and Europe have also beefed up their higher-education systems in the past five years.

"Unlike 20 years ago, other countries are actively recruiting students who previously would not have thought about going anywhere but the United States," said Heath Brown, director of research and policy analysis at the Council of Graduate Schools.

Brown and others are pushing for a coordinated recruitment strategy between the U.S. government and colleges, something that has proven difficult given the country's highly independent education system.

But some students and officials say they don't see why educators are so concerned. It's logical for universities to have to compete for students, they say, and U.S. institutions already have an edge over the rest of the world.

In India, for example, the well-regarded top universities simply don't have room for all the Indian students, said B.S. Prakash, India's consul general in San Francisco. Exporting students to the United States is good for both countries, since many graduates return home to improve India's economy, he said.

"In the big picture, India believes in globalization," Prakash said. "We don't look at these things as win-loss."

Neither does Chris Yuan, a mechanical-engineering doctoral student at the University of California-Berkeley. The 27-year-old was encouraged by his Chinese employers to gain global knowledge by attending graduate school in the United States, so he left Beijing to work on a master's degree in Texas.

Now he and his wife, a graduate student at California State University-East Bay, look forward to contributing to China's economy.

"If I could get a good offer, I'd like to go back," Yuan said. "Family is there, many friends are there. It's our home country."

It wasn't difficult for Radu Zlatanovici to choose between Bucharest and Berkeley for his doctorate work. After all, he's an electrical engineer.

"In my profession, (UC Berkeley) is really the place to be," said the 29-year-old Romanian. "It would have made God angry if I had an offer like that in my hand and turned it down."

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Combating Continued Drops in Foreign Student Enrollment — U.S. Driven to Increase Appeal of Colleges and Universities

By Katrina Kernodle

Declining foreign student enrollment in U.S. colleges and universities represents a worrisome trend for universities, employers, and policymakers. In the highly competitive international education market aimed at attracting foreign student enrollment, the U.S. gradually has been falling behind.

Nearly 2 million post-secondary students study outside of their respective native countries on an annual basis. Although the U.S. has long attracted more international students than the rest of the world, recently other countries (including the United Kingdom and Australia) have become increasingly popular destinations for higher education.¹ International student tuition, fees and related costs represent nearly \$13 billion in yearly revenue in the U.S., not to mention spending on textbooks, computer products, supplies and daily living expenses. The competition for attracting the international student market segment is growing.² However, only about 3% of all students enrolled in U.S. higher education programs are foreign, while nearly 10% of Britain's post-secondary students are from other countries.³

According to a 2004 study conducted by the Council of Graduate Schools — engineering, the leading field for international students in the U.S. — faced the steepest decline in applications and admissions during 2004.⁴ The study also demonstrated a significantly diminished level of applications and admissions to U.S. post-secondary institutions from China, India and Korea during 2003-2004.⁵ In 2003, the U.S. share of Chinese students dropped from 81% in 2000 to 46% compared to the U.K. and Australia (the other leading Anglophone host countries). During that time, Chinese students choosing to go to the U.K. increased by more than 37,000 and more than 20,000 in Australia, while the U.S. saw an increase of fewer than 2,000.⁶

A year ago, California, the leading U.S. host state for international students, witnessed a 4% decrease in the number of international students while the nationwide drop was approximately 2.5%.⁷ The University of California at Berkeley saw the number of international graduate students slip to 425 in 2004-2005 compared to 469 in fall 2003.⁸ Pete Johnson, Director of International Admissions for the full-time MBA program at Berkeley's Haas School, reported to *BusinessWeek* that he intends to spend more time explaining that international viewpoints are respected in Haas classrooms.⁹ Johnson observed that "...in many countries, U.S. actions in Iraq have been very unpopular, and the information that has been in the media abroad about the issue has created the impression for some international students that the U.S. may not be a welcoming place to study, which is far from the truth."¹⁰

Although international public opinion about the U.S. and President Bush hit a highpoint in the immediate aftermath of 9-11, the pendulum has swung further and further in the opposite direction ever since the U.S. launched attacks on Afghanistan and Iraq. Shortly after the U.S.

began fighting in Iraq, the BBC hosted a poll of 11,000 people in 10 countries as well as in the U.S. to determine "What the World Thinks of America."¹¹ Noticeable contrasts in the poll results included the U.S. concept of world perspectives versus the actual perspectives of those polled from other countries. For example, while 88% of U.S. respondents observed favorable attitudes about Americans, the international opinion was far bleaker with approximately 10% of French respondents, 30% of Indonesian respondents, 45% of Brazilian respondents, and 60% of Jordanian respondents reporting negative feelings towards Americans. Even more international respondents reported unfavorable opinions about President Bush. Certainly, negative global perspectives about the U.S. — such as those broadcast by BBC news — are not positive indicators for international outreach officials in U.S. universities.¹²

Universities have been pointing to post-September 11 visa restrictions placed on student visas as a key factor that discourages international students from applying and/or being accepted to U.S. programs. In April 2005, Senator Richard Lugar (R-Indiana), Chairman of the Senate Foreign Relations Committee, observed that many foreign students still view the U.S. to be an inhospitable place to study, despite recent improvements in the visa application process.¹³

Lost talent at the nation's academic institutions is not just a concern for colleges and universities. U.S. employers that rely on top tier foreign graduates of U.S. universities as a source of talent, ingenuity and diversity have expressed concerns including Bill Gates who, at an April 2005 forum at the Library of Congress, observed that Microsoft may be shifting more work overseas as a result of fewer foreigners studying and staying in the U.S.¹⁴

The declining international student market segment and related impacts on higher education, industry and the economy have not gone unnoticed in Washington. Senator Lugar, has championed an effort to increase awareness of problems posed by the continually decreasing number of foreign students in U.S. universities.

It is critical that the U.S. reexamine factors that attract international students. A 2004 study of international students by the British Council ranked deciding factors in the following order: quality of courses, employability prospects, affordability, personal security issues, lifestyle and accessibility.¹⁵ As other nations aggressively market and promote innovative measures such as foreign offices and partnerships with universities and companies abroad, more U.S. universities need to follow suit.

There are U.S. universities at the forefront of the marketing and collaborative arena — for example, the University of Chicago's Graduate School of business that offers an Executive MBA in Barcelona and Singapore. University of Pennsylvania's Wharton School has worked with Kellogg at Northwestern to develop business schools in Bangkok and India, and MIT boasts global accessibility through its free online publication of MIT course materials (<http://ocw.mit.edu>).¹⁶ This global thinking represents only a fraction of efforts by these schools and many other U.S. institutions.

Still, despite countless global initiatives on the part of American academic institutions, the percentage of international students in the U.S. remains small compared to several other nations and declining numbers of applicants and admitted students suggests greater problems to come. For universities to stay competitive, strategic plans with specific global goals need to be established. Creating the image and reality of a "foreign friendly" U.S. is vital not only to U.S. colleges and universities but also to the country as a whole in order to grow and prosper in today's international environment.

- 1 "New Online Resource Tracks Trends in Global Student Mobility." Institute of International Education Internet Website. May 10, 2005.
- 2 Carolyn Lochhead. "Drop in U.S. Student Visas by Foreigners Decline after 9/11 Curbs Called Threat to Education, Economy and Security." *The Chronicle* (Washington Bureau). April 5, 2005.
- 3 "Education at a Glance: OECD Indicators." Organization for Economic Cooperation and Development. 2003.
- 4 "International Graduate Student Admissions Survey." Council of Graduate Schools. 2004.
- 5 "International Graduate Student Admissions Survey." Council of Graduate Schools. 2004.
- 6 "New Online Resource Tracks Trends in Global Student Mobility." Institute of International Education Internet Website. May 10, 2005.
- 7 Carolyn Lochhead. "Drop in U.S. Student Visas by Foreigners Decline after 9/11 Curbs Called Threat to Education, Economy and Security." *The Chronicle* (Washington Bureau). April 5, 2005.
- 8 "Fall Semester Set to begin at UC Berkeley, Where Classes for Most Students Start August 30." UCB Internet Website. August 2004.
- 9 "America's Scramble for Global Applicants." *BusinessWeek*. July 2004.
- 10 "America's Scramble for Global Applicants." *BusinessWeek*. July 2004.
- 11 "Poll Results—What the World Thinks of America." *BBC News* Internet Website. 2004.
- 12 "Poll Results—What the World Thinks of America." *BBC News* Internet Website. 2004.
- 13 Carolyn Lochhead. "Drop in U.S. Student Visas by Foreigners Decline after 9/11 Curbs Called Threat to Education, Economy and Security." *The Chronicle* (Washington Bureau). April 5, 2005.
- 14 "Foreign Talent, Security's Sacrifice." *The Washington Post*. May 13, 2005. p. E1.
- 15 Mike Baker. "The University 'Market' Is Here." *BBC News* Internet Website. 2004.
- 16 FKA Interviews with Wharton and Kellogg Faculty In April 2005.

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Current U.S. Population
297 Million

Number of Immigrants
entering the U.S. this year
1.1 million

Census Bureau's Projection
of U.S. population in 2050
because of today's mass
immigration
420 million

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Immigration Issue Centers : National Security

Identity and Immigration Status of 9/11 Terrorists



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According to authorities, all of the hijackers who committed the September 11, 2001 terrorist attacks were foreigners. All of them entered the country legally on a temporary visa, mostly tourist visas with entry permits for six months. Although four of them attended flight school in the United States, only one is known to have entered on an appropriate visa for such study, and one entered on an F-1 student visa. Besides the four pilots, all but one of the terrorists entered the United States only once and had been in the country for only three to five months before the attacks.

The four pilots had been in the United States for extended periods, although none was a legal permanent resident. Some had received more than one temporary visa, most of which were currently valid on September 11, but at least three of them had fallen out of status and were, therefore, in the United States illegally.

The terrorists had obtained U.S. identification that was used for boarding flights in the form of Florida, Virginia, California and New Jersey driver's licenses/ID cards. One of the terrorists, Mohamed Atta, was detained in Florida for driving without a license, but subsequently obtained one. Thirteen of the terrorists had Florida driver's licenses or ID cards, seven had Virginia driver's licenses, at least two had California licenses and two had New Jersey driver's licenses. According to the March 28, 2002 Pittsburgh *Post-Gazette*, Robert Thibadeau, director of Carnegie Mellon's Internet Security

laboratory, says that "the 19 terrorists on Sept. 11 were holding 63 state driver's licenses for identification."

In the probe of the attack, numerous other people with potential connections to the hijackings have been detained for immigration violations.

[Note: In the conversion of names from the Arabic alphabet into ours, there is no single correct spelling. This is why the names of the terrorists vary in their spelling in different news accounts, and why computerized databases will not recognize the name when it is spelled differently from how it was entered into the database. For example, Mohamed could be spelled Muhamed or Mohammed, and al-Suami could be spelled Alsuami or al Swami, etc.]

The Pentagon Plane (AA Flight 77, Dulles to Los Angeles)

1. Hani Hasan Hanjour (26) - Saudi Arabian - pilot

- First came to U.S. in Oct. 1991 to study English in Tucson, Arizona.
- Had been in U.S. in April 1996, when he lived in Oakland, Cal. where he studied English, and later received flight training in Scottsdale, Arizona. He left in Nov. 1996 and returned again in Nov. 1997 while he obtained a FAA commercial pilot certificate. He left again in April 1999.
- Obtained student visa (F-1) in Jeddah, Saudi Arabia in Sept. 2000 after an initial refusal. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, Hanjour failed to reveal in his visa application that he had previously traveled to the United States.
- Returned Dec. 2000 to study English at Holy Names College (Oakland CA) but never showed up at the school. In illegal status because he did not enroll, and his entry permit had expired at the time of the attack.
- Lived in San Diego, Phoenix and Mesa, Ariz. (with Nawaf al-Hamzi), and later in Northern Virginia.
- Had a Virginia driver's license.

2. Khalid al-Mihdhar (or Almidhar) - Saudi Arabian

- Obtained U.S. tourist visa in Jeddah, Saudi Arabia in April 1999.
- In Malaysia in Jan. 2000. Followed by Malaysian agents tipped off by CIA (see Wash. Post 2/3/02).
- Arrived at Los Angeles Jan. 15, 2000 with Nawaf al-Hamzi on B-2 tourist visa from Malaysia.
- Lived in San Diego, where he took flight training in May 2000 with Nawaf al-Hamzi.
- Left U.S. in June 2000 and obtained new B-1 visa in Saudi Arabia. According to the 2/04 Staff Report of the

- National Commission on Terrorist Attacks, his application falsely indicated he had not previously traveled to the United States and contained "suspicious indicators." It also revealed that he had more than one passport.
 - Returned July 4, 2001, lived in New York.
 - Put on the Watch List for terrorists in August 2001 after entering U.S. last time.
 - In legal nonimmigrant status at the time of the attack.
 - Had a Virginia driver's license.
3. Nawaf al-Hamzi (or Alhamzi) - Saudi Arabian (brother of Salem)
- Obtained U.S. tourist visa in Jeddah, Saudi Arabia in April 1999. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, his application contained "suspicious indicators."
 - In Malaysia in Jan. 2000. Followed by Malaysian agents tipped off by CIA (see Wash. Post 2/3/02).
 - Arrived at Los Angeles Jan. 15, 2000 with al-Midhar from Malaysia.
 - Lived in San Diego, where he took flight training in May 2000 with al-Midhar, in Dec. 2000 moved to Mesa Arizona (with Hani Hanjour), and later to Fort Lee, N.J., Wayne, N.J. and Northern Virginia.
 - Applied to INS July 12, 2000 for extension of permitted stay in U.S. (apparently granted for additional six months).
 - Put on the Watch List for terrorists in August 2001. (with al-Midhar)
 - Had been in illegal visa overstay status for nine months at the time of the attack.
 - Had California, Florida and Virginia driver's licenses .
4. Salem al-Hamzi (or Alhamzi)- Saudi Arabian (brother of Nawaf)
- Obtained U.S. tourist visa in Jeddah, Saudi Arabia in April 1999.
 - Arrived U.S. June 2001.
 - Lived in Fort Lee, N.J., Wayne, N.J.
 - In legal nonimmigrant status at the time of the attack.
 - Had a Virginia driver's license.
5. Majed Moqed - Saudi Arabian
- Identity in doubt.
 - Entered on tourist visa obtained in Saudi Arabia after May 2001.
 - In legal nonimmigrant status at the time of the attack.
 - Had a Virginia driver's license.

1. Mohamed Atta - Egyptian (43) - pilot

- Born in Egypt in 1968.
- Graduated from Cairo Univ. with degree in Architectural Engineering in 1990.
- Obtained visitor visa in Berlin Germany, May 2000.
- Entered U.S. at Newark on June 3, 2000 on tourist visa and given entry permit until December 2, 2000.
- Applied in Sept. 2000 to INS for change in status to trainee.
- Attended Huffman Aviation school in Venice Florida with al-Shehhi.
- Arrested in Florida for driving without license, and failed to show up for court date --bench warrant issued.
- Subsequently obtained Florida driver's license.
- Obtained FAA pilot's certificate.
- According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, had overstayed his entry permit as of Dec. 4, 2000.
- Flew to Madrid Jan. 2001.
- United Arab Emirate (UAE) authorities state Atta detained in January 2001 on basis of his name appearing on terrorist alert list, but was not held in absence of U.S. charges. UAE states that U.S. authorities were warned Atta intended to return to U.S.
- Returned to U.S. on January 10, 2001 at Miami and was sent to secondary inspection because he acknowledged being in flight training but did not have required trainee visa. Interagency Border Information System (IBIS) database checked. Admitted by INS based on pending application for change to trainee status.
- Moved to Georgia in Jan. 2001 for additional flight training with al-Shehhi.
- Left U.S. and returned from Madrid on July 19, 2001 and given permission to stay until November 2, 2001.
- Also lived in Hollywood and Coral Springs, Fla.
- Received change of status approval by INS in September a year after the attacks.

2. Salam al-Suqami (25) - Saudi Arabian

- Obtained business visa in Saudi Arabia (but was residing in United Arab Emirates).
- Entered U.S. in May 2001. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, asked for and was admitted for 20 days and was in overstay status at the time of the attacks. The Commission staff also said his passport was doctored (presumably with pages removed to hide his travel to countries where he obtained terrorist training).

- Was in overstay status at the time of the attack.
- 3. Waleed al-Shehri (or Alshehri) (21) - Saudi Arabian (brother of Wail)
 - Obtained tourist visa in Saudi Arabia.
 - Entered U.S. in May 2000.
 - Licensed pilot.
 - Lived in Hollywood, Orlando and Daytona Beach (all in Florida).
 - In illegal nonimmigrant status (visa overstay) at time of the attack.
 - Had a Florida driver's license.
- 4. Wail (or Wael) al-Shehri (or Alshehri) (25) - Saudi Arabian (brother of Waleed)
 - Obtained tourist visa in Saudi Arabia.
 - Lived in Hollywood, Fla. and Newton, Mass.
 - Had a Florida ID card.
- 5. Abdulaziz al-Omari (or Alomari) - Saudi Arabian
 - Obtained tourist visa in Saudi Arabia in June 2001.
 - According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, his passport was doctored (presumably with pages removed to hide his travel to countries where he obtained terrorist training).
 - In legal nonimmigrant status at the time of the attack.
 - Lived in Hollywood, Fla.
 - Had Florida and Virginia driver's licenses.

The WTC South Tower Plane (UA Flight 175, Boston to Los Angeles)

1. Marwan al-Shehhi (or Alshehhi) - United Arab Emirates - pilot
 - Studied electrical engineering at Tech. Univ. in Hamburg.
 - In January 2000, obtained 10-year, multiple entry tourist visa in Dubai, United Arab Emirates.
 - Entered the U.S. in May 2000, applied September for change of status to student.
 - Attended flight school in Florida, obtained FAA pilot's certificate.
 - Took at least 3 trips out of U.S. and back. (Overstayed entry permit as of Nov. 2000, left U.S. in Dec. 2000, returned Jan. 2001.)
 - Attended flight school in Georgia with Atta in Jan. 2001. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, was sent to secondary inspection, but was admitted.)
 - Flew to Egypt April 8, 2001, returned from Morocco May 2, 2001.
 - In legal nonimmigrant status at the time of the attack.

- Lived in New York City area, Georgia and moved to Hollywood, Fla. in July with Atta and trained at Huffman Aviation in Venice.
 - Had a Florida driver's license.
2. Fayeز Ahmed Rashid Ahmed al-Qadi Banihammad (aka Fayeز Ahmed) - United Arab Emirates
- Obtained tourist visa in United Arab Emirates.
 - Entered U.S. in June.
 - Lived in Delray Beach, Fla.
3. Ahmed al-Ghamdi (or Alghamdi) - Saudi Arabian
- Obtained tourist visa in Saudi Arabia.
 - Entered U.S. in May.
 - In illegal visa overstay status at the time of the attack.
 - Lived in Delray Beach, Fla.
 - Had a Florida ID card.
 - Had a Virginia driver's license
4. Hamza Saleh al-Ghamdi (or Alghamdi) (20) - Saudi Arabian
- Obtained visa in Saudi Arabia.
 - Lived in Delray Beach, Fla.
 - Had a Florida driver's license.
5. Mohand al-Shehri (or Alshehri) - Saudi Arabian
- Identity in doubt.
 - Obtained tourist visa in Saudi Arabia.
 - Admitted to U.S. in May.
 - Lived in Delray Beach, Fla.

The Pennsylvania Plane (UA Flight 93, Newark to San Francisco)

1. Ziad Samir Jarrah - Lebanese - pilot
- Born in Lebanon in 1975.
 - Studied aircraft construction and maintenance at Hamburg tech. univ. 1996-00.
 - Obtained five-year, multiple-entry tourist visa in Germany.
 - Entered U.S. in June 27, 2000 at Atlanta.
 - Trained as a pilot in Venice, Florida and Virginia Gardens, Florida but never obtained student trainee visa. Received FAA pilot's certificate.
 - Took at least 5 trips out of U.S. and back (flew to Germany July 25 and returned August 5, 2001).
 - Lived in Delray Beach, Fla.
 - In legal nonimmigrant status at the time of the attack.
 - Had a Florida driver's license.
2. Saeed al-Ghamdi (or Alghamdi) - Saudi Arabian
- Identity in doubt.
 - Obtained tourist visa in Saudi Arabia. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, application falsely stated he had not

- previously applied for a U.S. visa.
 - Entered U.S. in June 2001. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, he was sent to secondary inspection, because he had a one-way ticket and \$500, but was admitted.
 - Lived in Delray Beach, Fla.
 - Had a Florida ID card.
3. Ahmed Ibrahim A. al-Haznawi (or Alhaznawi) (21) - Saudi Arabian
- Obtained tourist visa in Saudi Arabia.
 - Entered the U.S. in June 2001. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, his passport may have had "suspicious indicators."
 - In legal nonimmigrant status at the time of the attack.
 - Lived in Delray Beach, Fla.
 - Had a Florida driver's license.
4. Ahmed Abdullah al-Nami (or Alnami) (23) - Saudi Arabian
- Obtained tourist visa in Saudi Arabia.
 - Entered the U.S. in May 2001. According to the 2/04 Staff Report of the National Commission on Terrorist Attacks, his passport may have had "suspicious indicators."
 - In legal nonimmigrant status at the time of the attack.
 - Lived in Delray Beach, Fla.
 - Had a Florida ID card.

Other Conspiritors:

- Khalid Sheikh Mohamed (Coordinator) - Indicted in 1996 in N.Y. for his role in an earlier terrorist plot. Had a Saudi Arabian passport (although not a Saudi national) - obtained a U.S. visa in July 2001.
- Ramzi Bin-al-shibh - Yemeni (potential pilot) - denied visa four times.
- Zakariya Essabar - Moroccan - potential pilot/hijacker - denied visa.
- Saeed "Jihad" al Gamdi - Potential hijacker - denied visa.
- Ali Abdul Aziz Ali - Pakistani - financial facilitator - denied visa.
- Mohamed al Kahtani - potential hijacker - denied visa.

Data compiled from various news sources and checked where possible against official sources including the Dec. 2002 Senate report "Joint inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001" (Released in July 2003) and the Feb. 2004 Staff Report of the National Commission on Terrorist Attacks.

Updated 2/04

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Alaska State Legislature

Please enter into the record my testimony to the

HSTA

committee name

Committee on

HB 290

bill # / subject

dated

April 04 06

public hearing date

CDL Licenses Holder's
with US gov Attorney General
Background Check's

(Public Law 107-56 5103+ ICIB)

STILL Need Pass Port or

Birth Document to Reenter
the U.S.

Signed:

James F McCurdy

Testifier

Representing (optional)

36905 Short LN Kenai AK 99611

Address

907 252 4000

Phone number

Louie Flora

From: POMS@legis.state.ak.us
Sent: Monday, April 10, 2006 11:04 AM
To: Louie Flora
Subject: New Pom:Licensing

Charlene Jaeger
10227 Eagle River ln

Eagle River 99577,

Dear Legislators,

Please kill HB 290 and SB 189.

This bill does not prevent illegal immigration.

It punishes the responsible, not the criminal! I would prefer to have drivers tested, DMV records, and insured if they're going to drive anyway, and people will.

Thanks, Charlene Jaeger

The New York Times

nytimes.com

PRINTER-FRIENDLY FORMAT



July 19, 2005

Governors Warn of High Costs Arising From New ID Law

By MICHAEL JANOFFSKY

DES MOINES, July 18 - The nation's governors told Michael Chertoff, the secretary of homeland security, on Monday that the ~~new law~~ **new law** expanding the role of state motor vehicle departments to include national security responsibilities ~~was presenting enormous financial and logistical challenges that could take many years to meet.~~

Some governors suggested that the problems might prove so onerous that Congress might need another approach. The law, known as the Real ID Act, gives states three years to begin verifying whether someone seeking or renewing a driver's license is in the country legally.

"~~Real ID~~ **Real ID** has raised a lot of concerns," said Gov. Phil Bredesen of Tennessee, a Democrat who was part of a bipartisan chorus of criticism, made by the governors to reporters after the meeting. "People who pass these laws don't necessarily take into account what it takes to implement them in the states. Some people expressed the opinion that if you want to have a national I.D. card, fine. You need to issue it, not try to get it done in 50 states."

The governors met privately with Mr. Chertoff on the final day of the National Governors Association's summer meetings.

Mr. Chertoff, speaking to reporters after his 40-minute meeting, described it as part of "an ongoing discussion" with the governors about how to put new programs into practice and to improve existing ones. "Everybody's opinion is different," he said. "We'll find a common plan to work for everybody."

While the governors said they appreciated Mr. Chertoff's words, many seemed nonetheless daunted by the need to restructure motor vehicle agencies. Under the new law, workers would need to be trained for added responsibilities that involved document verification and use of sensitive federal data bases.

Many governors were critical of how the law was forced on them with no consultation. Congress approved the measure in May as part of a bill providing \$82 billion more for the fighting in Iraq and Afghanistan.

"It was attached at the last minute, and it was poorly thought through," said Gov. Mike Huckabee of Arkansas, a Republican who became the new chairman of the governors association.

Part of the governors' objection was based on costs. Congress appropriated \$100 million for the effort, but Gov. Mark Warner of Virginia, a Democrat and the outgoing chairman, said upgrading the motor vehicle department in his state alone could cost that much.

Good morning once again, Mr. Chairman and Committee Members!

Thank you for having me here. This process has all been very educational. I've been thinking that maybe I should quit my day job!

I'm sure all of you are aware of my opposition to this bill. I've done a lot of research in the past few weeks, and so I'm not here just to repeat my previous testimony. I hope it will be as interesting to you as it was for me to write it.

Before I start, I want to give a fuller disclosure about why I've chosen to oppose this bill. I am not for illegal immigration, and I do in fact support criminally charging employers who hire illegal labor, and removing illegal immigrants in most situations when they are discovered. I am friends with some legally-present foreign students, but that has given me far more insight than bias. The reasons I oppose this bill are actually much more selfish.

This bill does not discourage illegal immigration or terrorism. It targets the wrong people, and it is not enforceable. In reality, passing this bill would actually decrease our public safety. I will explain these reasons to you.

This bill does not discourage illegal immigration. I cannot imagine that people intending to stay here illegally would present themselves to the DMV for a license in the first place. Even if they did, early expiration of their driver's license would not realistically cause them to leave. California's current illegal population is *prima facie* proof of this. They are not starved for identification, as passports and foreign licenses are completely valid documents used for driving, flying, buying a beer, and opening a bank account.

This bill does not discourage terrorism. Fifteen of the nineteen hijackers were legally present on Sept 11. If those last four hadn't had their driver's licenses, they would have used their passports to board their flights. Also, more acts of terrorism have been committed in this country by American citizens than by foreigners. Remember Ted Kaczynski (the Unabomber), David Koresh, Timothy McVeigh, some members of PETA, the Animal Liberation Front, the Earth Liberation Front, etc.

In the Senate Finance Committee, Senator Huggins recalled the recent sad events involving Mohammed Reza Taheri-Azar, the UNC graduate who drove his rental car into a group of students "to avenge Muslims," as an example of terrorism that this bill could have prevented. This man immigrated to the US in 1985 as was either a permanent resident or a U.S. citizen. He was kicked out of his fraternity due to excessive drug and alcohol use. His problems are related to mental illness; not his nationality or immigration status. He would not have been affected by this legislation in any way.

This brings us to my next point. This bill targets the wrong people. By far, our largest group of long-

term non-immigrant visitors is foreign students. They are the ones that will be subject to repeated, annual license renewals. Foreign students are a major presence in the US at the graduate level in the fields of math, engineering, and science. They are typically the cream of the crop from their home countries, and it gets even better. They're paying full price – subsidizing tuition rates for our students! – because they are not usually eligible for scholarships, financial aid, or resident tuition pricing. Foreign students generate \$13 billion in yearly revenue in the US. They are the model of the kind of person we want immigrating to our country (legally, of course).

Unfortunately, the extra paperwork and processing at the national level has already caused these students to study elsewhere. Berkeley had 950 international graduate students in 1999, and 425 – less than half! -- by 2005. Last April, Bill Gates announced during a Library of Congress forum that Microsoft is shifting more work overseas as a direct result of fewer foreigners studying and staying in the US. I agree with valid security measures to keep out terrorists during the visa process, but this bill doesn't prevent terrorism. There is already a federal computer system named "SEVIS" to monitor the status of foreign students in the US. It would certainly turn me off of a new country if I got to spend the night in jail because I overlooked my annual license renewal during finals week. Forcing foreign students to renew their driver's license annually does not make me any safer, but it does add another bureaucratic hoop that might make a student decide to go somewhere more tolerant.

This bill is not enforceable. I am holding a passport of a legally-present foreign student. Inside, there is no US visa. This country, like many others, only issues passports for five years, so it had to be renewed while the student was already here. The US does not issue visas domestically. This piece of paper is the form that makes the student legally present in the US. It is hardly a tamper-proof document. It's no surprise that our immigration law is very complex, and many, many different types of documents and combinations thereof can prove legal status. When this student recently re-entered the US, the federal immigration officer had to scratch her head for a few minutes to recall the rules before approving the entry. I don't believe that the DMV will be as well equipped to make that determination. Imagine that scenario at the DMV in your mind.

So far, I've told you about what this bill won't do. What this bill will do is reduce public safety on our roads. This reasoning applies to all long-term foreigners and not just students. How many people in the US have been killed or injured by illegal immigrants or acts of terrorism? How many people are killed or injured on our roads each day due to unsafe driving and uninsured drivers? The primary fallacy of this bill is that it assumes that people can only drive here legally with a domestic driver's license. The standard operating procedure to get licensed in Moscow involves handing a nice, crisp \$50 bill to the test examiner. You can see this in their traffic fatality rates. We would all love for illegal immigration to disappear overnight. But realistically speaking, would you rather be driving on the road next to an illegal immigrant with an Alaska driver's license and driving record, or an illegal immigrant without either?

I have one last piece of research on that topic. The DMV official who testified in this committee last

time said that it was possible for foreign-licensed or unlicensed drivers to obtain liability insurance. I called Geico, State Farm, Allstate, and AIG. I had one "No," two "I don't think so; call later," and one "Only for 30 days." For all intents and purposes, that effectively means that an illegal immigrant with an expired license would not be able to obtain liability insurance. For those reasons, this bill would decrease public safety.

Currently, our DMV checks for legal entry to the US when a foreigner applies for a license, and they are treated the same way as everyone else thereafter. This system works fine. It's a good balance and it doesn't need to be changed.

This legislation adds some bureaucracy at the DMV with the laudable goal of preventing illegal immigration and/or terrorism. Unfortunately, it effectively trades away a small piece of our safety without preventing either. It is not enforceable. It makes it more difficult for people that are legitimately here, without adding any actual deterrent to someone who isn't. I won't even bring up again the data security issues indirectly caused by this bill.

Thank you again, Mr. Chairman and committee members, for your consideration of my testimony. I provided some of your offices with supporting documentation for my earlier testimony, and I have some spare copies with me today if any of you are interested.

One last item: The New Hampshire bill against the Real ID Act has passed their House with a vote of 270-84 and is now going through their Senate committees.

I ask all of you again to vote against this bill. I would be happy to answer any questions.

HB 1582 - AS INTRODUCED

2006 SESSION

06-2986

05/03

HOUSE BILL 1582

AN ACT prohibiting New Hampshire from participating in a national identification card system.

SPONSORS: Rep. Marple, Merr 9; Rep. Souza, Hills 11; Rep. Phinizy, Sull 5; Rep. L. Christiansen, Hills 27;
Rep. Kurk, Hills 7

COMMITTEE: Transportation

ANALYSIS

This bill prohibits New Hampshire from participating in a national identification card system.

Explanation: Matter added to current law appears in *bold italics*.Matter removed from current law appears ~~(in brackets and struckthrough.)~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

06-2986

05/03

STATE OF NEW HAMPSHIRE*In the Year of Our Lord Two Thousand Six*

AN ACT prohibiting New Hampshire from participating in a national identification card system.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Prohibition Against Participation in National Identification System. The general court finds that the public policy established by Congress in the Real ID Act of 2005, Public Law 109-13, is contrary and repugnant to Articles 1 through 10 of the New Hampshire constitution as well as Amendments 4 through 10 of the Constitution for the United States of America. Therefore, the state of New Hampshire shall not participate in a national identification card system; nor shall the department of safety amend the procedures for applying for a driver's license under RSA 263 or an identification card under RSA 260:21.

2 Effective Date. This act shall take effect 60 days after its passage.

Matthew Kerr
6520 Crooked Tree Dr
Anchorage AK 99507
matt8192@yahoo.com
(907) 346-6288

Rep. Paul Seator,
Alaska State Capitol
Room 102

4/4/06

Re: HB 290 – Real ID

Dear Rep. Seaton,

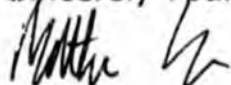
Thank you for listening to my testimony again today. The debate certainly seemed lively!

If you're interested, I would be happy to stop by and meet with you and/or your staff for a few minutes to show you the immigration documents that could cause potential trouble at the DMV for legally-present aliens. I would also be happy to know what your thoughts are on this bill.

I reviewed the memo from Legislative Research Services and I found it very informative. I had not researched the "driving certificate" provisions in detail before. I analyzed the arguments for and against the three possible scenarios (as I understand it) and attached them to this letter.

Please let me know if you would be interested in meeting sometime soon. I have no time constraints except to return the passport to its owner at some point. You can reach me at the telephone number or email address above. Thanks!

Sincerely Yours,



Matthew Kerr

Three Options:

- Status Quo
(Verify immigration status on initial application – not thereafter)
 - Pros:
 - Most licensed and insured drivers on roads
 - Initial legal presence is usually easier to determine vs. after several years (expired passports, visa no longer in possession, adjustment of status papers, etc.)
 - Cons:
 - Risks chance that ID might not be accepted to fly airplanes (I believe the federal government would be constitutionally prevented from placing Alaskans in a situation where we would need passports to travel to other states. Also, the Real ID Act may be modified after enough states reject it)

- HB 290
(Verify immigration status every time; limit expiration dates)
 - Pros:
 - ???
 - ID would continue to be acceptable to fly
 - Cons:
 - Fewer licensed and insured drivers on roads
 - Difficulty determining correct immigration status
 - Legal aliens may be denied licenses in addition to illegal

- New “Driver’s Certificate”
(Issue non-ID “driver’s certificate” for people without immigration documentation)
 - Pros:
 - ID would continue to be acceptable to fly
 - Possible for drivers to remain licensed and insured
 - Cons:
 - “Driver’s Certificate” would single out illegal immigrants (“scarlet letter”), and would thus make them wary of obtaining them
 - Difficulty determining correct immigration status
 - Legal foreigners mistakenly given certificates (Tennessee example)
 - Need to define different set of acceptable documentation
 - Reported problems fake documents being accepted (Tennessee example)
 - Insurance harder to obtain for certificate holders (Tennessee example)
 - Potential issues with interstate usage (Tennessee example)

Matthew Kerr
6520 Crooked Tree Dr
Anchorage AK 99507
(907) 346-6288
Matt8192@yahoo.com

Rep. Paul Seaton
Chair, House State Affairs Committee

3/29/2006

Dear Rep. Seaton,

Thank you for listening to my testimony at the House State Affairs committee on HB 290 (the "Real ID Act" implementation). That was my first public testimony, and I appreciated the consideration that you and the committee members gave to it.

I've written a summary and provided some background information to help understand my objections to this bill. They are separated into four main categories:

1) **Difficulty of implementation:** This bill asks the DMV to verify immigration status, which is not always a simple process. There are many possible scenarios where the DMV would not likely be inclined to give someone a license, even if he or she was legally present. Likewise, because **someone could potentially be legal even without having a visa** in their possession, it nearly negates the whole point of the legislation. (I have attached details of these possible scenarios.)

2) **Public Safety:** I prefer allowing as many people as possible to fulfill our state's testing requirements to become licensed drivers. One major fallacy of this legislation is that it pretends that foreigners can only drive (or fly, or open a bank account, etc.) with a domestic license. If you ratchet up the bureaucracy at the DMV too far, you will discourage people from doing it "the right way" and cause people to rely on their foreign licenses instead. Other countries have wide variance in licensing standards. Legally present or not, the public safety is served very much more by having locally licensed and insured drivers on our roads.

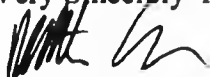
3) **Data Security:** My job is in the field of database administration and data security. The DMV has apparently started capturing images of source documents through administrative rulemaking because of the Real ID Act. Capturing and retaining long-term copies of identity documents such as birth certificates and social security cards, and allowing electronic access to all other states and territories is an extremely dangerous proposition. Collecting that much sensitive data in one place (with 50+ electronic access points) is an open invitation for identity theft of an unimaginable scale. Banks spend much more money on security than the State could afford, yet they have recently had to reissue over 200,000 compromised debit cards due to a security breach they still have not found and fixed. Imagine the danger if the lost data included actual images of birth certificates and social security cards. Beyond just petty theft, this kind of data retention could conceivably aid illegal immigration and terrorism.

4) Utility and Civil Liberties: On a basic level, a driver's license is not supposed to be an immigration document. I see this bill as actually counterproductive to its goals. I also value my privacy enough that I don't want the government to verify my citizenship, look up my name in the always-effective "government watch lists," or keep even more copies of my personal documents only to issue a driver's license. I understand that there is a grandfather clause for existing drivers, but it's not okay just because it would only affect future generations of residents instead of me. There will always be ways to fake your identity. The solution is to implement actual security measures in places they are needed, instead of continuously adding verification, documentation, surveillance, and tracking measures to the life of the average citizen. Part of the federal Real ID Act also requires "biometric identifiers" for driver's licenses, which is a euphemism for fingerprinting or iris scans. That idea gives me the willies; it does not make me any safer.

I have attached a copy of my testimony to the House State Affairs committee; the Senate Finance committee; a list of several difficult documentation scenarios at the DMV; and recent press articles about the issues of data security.

This bill is opposed by many organizations, ranging from the Gun Owners of America to the ACLU. I would ask you to oppose it too.

Very Sincerely Yours,



Matthew Kerr

Attachments:

- Immigration Documentation Scenarios
- My Testimony at the Senate Finance Committee
- My Testimony at the House State Affairs Committee
- InformationWeek Article
- New Hampshire HB 1582 forbidding participation in Real ID

SB 189 - "Real ID" Difficult Documentation Scenarios

US visas are only required to be valid on the date of entry. For example, a visa can expire while in the country, but the individual is still legally present until the expiration date on the I-94 entry form and/or the often-renewed I-20 school enrollment form. I will use students for most of my examples, since they are the most likely long-term non-immigrant visitors to our state. However, many of the cases can also be applied to other classifications of foreign citizens.

In each of the following scenarios, the person is legally present in the country.

Scenario 1: Expired Visa

A student has a passport, an expired student visa (F-1 or J-1), an I-94 entry form marked valid for "Duration of Status" (instead of a defined end date), and an I-20 form showing current enrollment at a university.

The student is legally in the country, although the expired visa and lack of a defined end date on the I-94 may cause the DMV agent to believe the person is not legally in the country.

Scenario 2: Expired Passport

A student has an expired student visa in an expired passport. The current passport does not have any visa in it at all, since the US does not issue visas domestically. The student has the same I-94 and I-20 forms described above.

The student is legally in the country, even though his/her current passport has no stamps or visas whatsoever, and the previous passport and visa are expired.

Scenario 3: No Visa

The student renews their passport while in the US, and his/her country does not return previous passports after renewal. The student has a current, empty passport, an I-94 and I-20, and no visa whatsoever since it was affixed inside the old passport.

Many countries, perhaps most countries, do not return the previous passport to the holder after issuing a new one. The student is still legally in his/her student status. However, a DMV agent would likely be extremely unwilling to issue a license to someone who can't even present a visa. The proposed documentation law almost appears moot, if someone can be legal without even having a visa in their possession!

Scenario 4: Other Documentation

A visitor of any kind applies for an "adjustment of status" while in the US, which can take over a year. Or, they may be waiting for a replacement I-94 form. The person may (or may not) have any number of passport stamps, documents, or court orders, other than a standard visa. (For one large but non-comprehensive list, see the bottom half of California's DMV list at http://www.dmv.ca.gov/dl/dl_info.htm#BDLP)

A DMV agent may not have seen a particular document type before (e.g., "Refugee Travel Document" or I-797 "Notice of Action"), and may demand other documents or visas which the person doesn't have. It could very likely require supervisors, phone calls to other agencies, and even lawyers to "convince" the DMV about someone's legal status.

Consider what you would do if you experienced or expected significant trouble at the DMV in any of the scenarios envisaged here. If I was in the immigrant or visitor's shoes, my response would be "Forget it!" and I would just continue to use my foreign license. The proponents of this bill seem to forget that someone does not need a US license to legally drive here.

As an Alaskan, I am much safer having long-term drivers on the road that have passed the requirements for a US license, regardless of immigration status. I support removing most illegal immigrants and prosecuting employers that use illegal labor. However, I even more strongly support having locally-licensed and insured drivers on the road that have passed the required tests and have a full driving record accessible to law enforcement. I still have yet to hear a single convincing argument about how these requirements will discourage terrorism or illegal immigration.

Testimony at Senate Finance Committee

Good Morning, Madam Chair and Committee Members,

My name is Matthew Kerr and I am a small business owner in South Anchorage. Before I start, I would like to thank Senator Greene's office for facilitating my remote testimony today – I decided to take advantage of the long weekend from Juneau. Today, I am representing my own views. This is only the second time I have ever testified, so please forgive me if I sound nervous.

I am here to state my opposition to SB 189. I believe this bill, as well as the rest of the federal "Real ID Act" requirements, are all a very bad idea. Since this is the Finance Committee, I will frame my opposition in financial terms.

First, it will cost money to train DMV employees as immigration agents and to deal with the increased paperwork. Immigration law is not always as simple as "visa and passport, please." In one case I'm aware of, a foreign student would have needed to return to the DMV four times in the past five years to renew their license under the proposed law. This costs everyone money and time. Would you be able to determine the legal status of someone with an expired F-1 student visa in an expired passport, an I-94 entry form marked valid for "Duration of Status" (instead of a particular date), and a valid I-20 form showing current enrollment at the University of Alaska? Can you imagine trying to convince doubtful DMV employees four times over five years? Personally, if I found myself in that situation, I would ignore the 90 day limit and continue to use my foreign license indefinitely. It is not cost effective to train DMV employees as immigration agents versed in the finer points of immigration law, nor to require people to return sometimes annually to renew their ability to drive.

Second, there are costs to public safety. If someone was to decide to stay illegally, would you rather be on the road with an illegal alien that has passed the tests to obtain a valid Alaska license, or an illegal alien, probably not insured, with a Russian license and no accessible driving record to law enforcement? I have personally driven the roads in Ukraine. That is an actual, real risk to the general public, unlike some vague, convoluted "terrorist threat" that this is supposed to correct. In addition to public safety, there will be more law enforcement and court costs dealing with more suspended licenses for people that haven't actually committed any moving violations.

Third, there is a huge potential data liability for the State. This is a field I am intimately familiar with. Part of my job is database administration and data security, and I work with sets of sensitive personal information for many of my clients, including my current contract with the State of Alaska. While not explicitly covered by SB 189, part of the federal "Real ID Act" mandates that states retain electronic copies of the documents used to obtain a driver's license, and opens up direct electronic access to DMV records from other states. This concept absolutely horrifies me.

The DMV here does have good security, but nothing is impenetrable. You don't necessarily need to be 'hacked.' All it takes is a single disgruntled employee (or contractor!) walking out of the building with a nightly backup tape in his back pocket and posting a copy on the Internet. Or, someone at the Puerto Rico DMV might decide he could make some better money selling copies of legitimate birth certificates and social security cards, courtesy of our DMV records. After that happens, you can find and prosecute the person responsible, but you can't put the genie back in the bottle. When it happens, it will be bad enough. I definitely don't want images of my 'documentation of legal presence' being sold in Tijuana for \$5,000 a pop. The more sensitive electronic data you collect in one place, the worse the fallout will be from the inevitable security breach.

There is one very good example in current news. Last Friday, the Daily News had an article titled, "Financial institutions issue check-card warnings" showing that debit cards of thousands of Alaskans were compromised due to a security breach at Visa, thousands of miles away. Nationally, Wells Fargo and Washington Mutual bank had to reissue over 200,000 ATM cards due to a software flaw that went unnoticed for years. The flawed software was written for financial institutions that paid for the most extensive security audits that money can buy.

Finally, I just don't see any point in doing all of this. A driver's license is not an immigration document. I could use a foreign passport, regardless of visa expiration, to board a domestic flight (just like the terrorists did) or to open a bank account. I could legally use a foreign driver's license, even with an expired visa, as long as I leave and return to Alaska once every three months. Personally, I would rather have my law enforcement and courts dealing with actual crime and not with foreign students who drowned in bureaucracy at the DMV. I don't want to "prove" that I'm a legal American and give a "biometric identifier" like my thumbprint or iris scan to have a driver's license. I don't want to "show my papers" to have them scanned and retained forever in yet another government database, with no tangible benefit. The current system strikes a reasonable balance between public safety and privacy, and it's not broken. I value my privacy!

I will be returning to Juneau tonight. I would be happy to provide any of your offices with copies of my testimony or to meet and discuss them with you.

Thank you for considering my testimony today. Please vote against this bill. Thank you!

Testimony at House State Affairs Committee

Good morning, Mr. Chairman and Committee Members,

My name is Matthew Kerr and I am a small business owner from Anchorage here representing myself. With all due respect to Representative Lynn, I am here to state my strong opposition to HB 290, which would require more paperwork and bureaucracy to issue driver's licenses in Alaska.

This bill has no benefit to our Great State or its residents. It's the worst of government for its own sake. This adds a useless paperwork burden to our residents, our foreign guests, and our DMV. I shouldn't need to remind you that the terrorists had perfectly valid foreign passports and US visas when they boarded the airplanes. This bill does not provide one single benefit to the residents of this state for all the money it would cost.

The first obvious problem with this bill is the cost and difficulty involved in training our DMV agents to be immigration officers. If someone has an expired F-1 student visa, an I-94 entry form marked valid for "Duration of Status" instead of a particular end date, and an I-20 form indicating current enrollment at UAA, could you tell me if they are legally entitled to be here, and for how long? What about someone who renewed their passport while in the US, and no longer has their original visa? Under the proposed rules, a friend of mine would have needed to return to the DMV four times in the past five years to renew their license each time. Immigration paperwork can be extremely complex, and we shouldn't be wasting money to train our DMV agents on the finer points of immigration law.

Second, a driver's license or identification card should be exactly that. A person's ability to drive legally has no logical connection to their immigration status. If I was a foreign visitor, I would skip the trouble, ignore the law, and just continue to use my foreign license for the full length of my stay, instead of obtaining an Alaska license after 90 days. This means that we actually lose the ability to fully maintain that person's driving record. In terms of identification, foreign passports are accepted just as widely as a state ID card.

The only argument I have heard in favor of this bill is that our Alaska ID cards would possibly not be enough to board an airplane. I don't believe that aviation in Alaska would suddenly cease to function because of our driver's licenses. We should be fighting this kind of federal mandate; not giving in to it. Last Tuesday, New Hampshire passed NH House Bill 1582 specifically prohibiting their DMV from implementing these rules, calling them "repugnant to Amendments 4 through 10 of the United States Constitution." I agree with that assertion.

However, the strongest argument against this bill cannot be quantified in financial figures and statistics. People that live here strongly value their privacy and no Alaskan residents I know are in favor of this bill or increasing the level of bureaucracy at our DMV. This is a slight but unnecessary encroachment on my privacy and yours. I don't want to be asked for more papers when I go to renew my license. The current system isn't broken. Nobody wants this bill, and it has no benefits for us. It honestly disappoints me that a state that rightly prides itself so highly on personal rights could attempt to pass this legislation.

Thank you for listening to my testimony. Please vote against this legislation.

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InformationWeek
BUSINESS INNOVATION POWERED BY TECHNOLOGY

Companies Can't Put A Stop To Data Thefts

Another threat to sensitive personal financial data has surfaced, while companies involved in an earlier data theft still can't explain how the information was stolen.

By Larry Greenemeier and Gregg Keizer, InformationWeek
March 27, 2006

URL: <http://www.informationweek.com/story/showArticle.jhtml?articleID=184400076>

Here's the next chapter in the never-ending saga of data losses. Another threat to sensitive personal financial data surfaced last week, while companies involved in an earlier data theft still can't explain how the information was stolen.

Visa last week tried to throw Fujitsu Transaction Solutions under the bus by naming the company as the developer of the point-of-sale software that hackers broke into to steal the PIN data that has led to more than \$3 million in fraudulent purchases. Fujitsu denied that its software was storing customer data. But that does little to resolve the situation, which has forced Bank of America, Citibank, Washington Mutual, and Wells Fargo to re-issue about 200,000 debit cards in the past few months. New York and New Jersey police have arrested 14 men in connection with the scam, which Hudson County, N.J., prosecutor Edward De Fazio says originated in Eastern Europe.

Last week also saw the rise of a new kind of bot Trojan software called MetaFisher, or SpyAgent, which uses HTML injection techniques to steal data from victims after they've logged into their bank accounts.

MetaFisher has compromised hundreds of thousands if not millions of accounts, says Ken Dunham, director of rapid response for iDefense, VeriSign's security research arm. The malware targets Spanish, U.K., and German banks and their customers. That spot under your mattress where you stash your cash is looking pretty attractive right about now.

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InformationWeek
BUSINESS INNOVATION POWERED BY TECHNOLOGY

GAO: Sensitive Taxpayer Data At Risk

Despite some improvements, the IRS needs to do much more to secure its IT systems, congressional auditors say.

By Eric Chabrow, InformationWeek
March 24, 2008

URL: <http://www.informationweek.com/story/showArticle.jhtml?articleID=183702662>

Taxpayer information housed on Internal Revenue Service computers remains at risk of being exposed because of information security control weaknesses, according to a Government Accountability Office report issued Friday.

"These weaknesses increase the risk that sensitive financial and taxpayer data will be inadequately protected against disclosure, modification, or loss, possibly without detection, and place IRS operations at risk of disruption," wrote GAO information security issues director Gregory Wilshusen and chief technologist Keith A. Rhodes in a 33-page report to IRS Commissioner Mark Everson, who didn't challenge the findings.

GAO, the auditing arm of Congress, examined IRS's fiscal 2005 financial statements, assessing the agency's progress in correcting previously reported information security weaknesses at two sites and determining if controls over key financial and tax processing systems at those facilities effectively ensures the confidentiality, integrity, and availability of sensitive taxpayer data.

The GAO noted some progress, but the IRS has failed to fix 40 previously reported flaws discovered in its IT security. Plus, the GAO identified new information security control weaknesses.

For example, the IRS hasn't instituted effective electronic access controls related to network management, user accounts and passwords, user rights and file permissions, and logging and monitoring of security-related events, the Congressional auditors said. Also, the tax agency hasn't effectively implemented other information security controls to physically secure computer resources and to prevent exploitation of vulnerabilities and unauthorized changes to system software.

"Until [the] IRS fully implements a comprehensive agencywide information security program," the GAO report states, "its facilities and computing resources and the information that is processed, stored, and transmitted on its systems will remain vulnerable."

Everson assured the GAO that the IRS is pursuing an agencywide approach to address the root cause of

the weaknesses, adding that many weaknesses have been corrected and additional controls have been implemented. He characterized the IRS efforts to fix security flaws as aggressive, noting that agency is developing security plans, security documentation, and security testing.

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<http://www.gencourt.state.nh.us/legislation/2006/hb1582.html>
Passed by New Hampshire House, March 6, 2006

HB 1582 – AS INTRODUCED

2006 SESSION

06-2986

05/03

HOUSE BILL 1582

AN ACT prohibiting New Hampshire from participating in a national identification card system.

SPONSORS: Rep. Marple, Merr 9; Rep. Souza, Hills 11; Rep. Phinizy, Sull 5;
Rep. L. Christiansen, Hills 27; Rep. Kurk, Hills 7

COMMITTEE: Transportation

ANALYSIS

This bill prohibits New Hampshire from participating in a national identification card system.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

06-2986

05/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Six

AN ACT prohibiting New Hampshire from participating in a national identification card system.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Prohibition Against Participation in National Identification System. The general court finds that the public policy established by Congress in the Real ID Act of 2005, Public Law 109-13, is contrary and repugnant to Articles 1 through 10 of the New Hampshire constitution as well as Amendments 4 through 10 of the Constitution for the United States of America. Therefore, the state of New Hampshire shall not participate in a national identification card system; nor shall the department of safety amend the procedures for applying for a driver's license under RSA 263 or an identification card under RSA 260:21.

2 Effective Date. This act shall take effect 60 days after its passage.

Questions from (H) State Affairs committee 4/4/2006

Where does DMV receive authority to refuse to issue a Driver's License to an illegal alien?

Beginning in AS 28.15.011, for a person to drive they must have "...a valid Alaska driver's license issued under the provisions of this chapter..."

Next, application must be made as required in AS 28.15.061 (a) and that application must include: name, date and place of birth, sex, address (mailing and residence), social security number as well as "...other information that the department may reasonably require to determine the applicants identity..."

The authority for this "other information" is found in 13 AAC 08.310 Application of regulations. "Under the authority granted the department by AS 28, 13 AAC 08310 – 13 AAC 08.400 provide standards for issuance of original driver's license..."

To reasonably determine that identity, the DMV refers to 13 AAC 08.330; Requirements of applicant. The applicant "...must furnish documentary proof of the person's date of birth, and one form of identification to verify the person's name." Section (b)(1 – 4) call for a birth certificate, an out-of-state-DL and passport. Section (b) (4) allows "other evidence of comparable validity" These items are developed by the DMV and will be found in our Standard Operating Procedures. (see below written policy)

AS 28.15.11 states "Upon successful completion of the application and all required examinations and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license..."

It is presumed that an applicant who does not meet the identity standard by failing to provide two of these acceptable documents has not successfully completed the application process.

In summary: The Alaska Statutes and the Alaska Administrative Code give the DMV the authority to determine exactly what documents may be used to verify the applicants identity. In the past recent history, the DMV has relied on and has accepted only documents held by a person who is either a US Citizen or has established presence in America legally. This history includes not only this current administration, but others as well.

After carefully reviewing the comments and questions from the (H) State Affairs meeting of April 4th, 2005 I would surmise that if the Committee concurs with Rep. Gruenberg's opinion that DMV today does not have the authority to deny an application for a driver's license to an illegal alien, then I believe that underscores the point and purpose of HB 290 and it's importance to Alaska.

What are the new Regulations on this subject?

Please see attached

What is the written policy on accepting documents to prove identity?

Please see attached

Respectfully Submitted,

Duane Bannock
Director
Alaska Division of Motor Vehicles

What are the new Regulations on this subject?

Please see attached *3 pages*

What is the written policy on accepting documents to prove identity?

Please see attached *3 pages*

Respectfully Submitted,

Duane Bannock
Director
Alaska Division of Motor Vehicles

Attn: Louie

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DAS
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Register _____, _____ 2006 ADMINISTRATION

(b) If the department refuses to issue a driver's license, the department will inform the applicant at the time of application of the decision, the reason for the decision, and, if applicable, what the applicant must do in order to obtain a driver's license. (Eff. 7/1/2006, Register 178)

Authority: AS 28.05.011 AS 28.15.031

2 AAC 90.420. Application for driver's license. (a) An application for a driver's license must be made on the form prescribed and provided by the department. The application will include questions concerning a person's eligibility for a license, including the existence of physical or mental conditions that may impair the ability of the applicant to operate a motor vehicle safely. If the applicant's answers to these questions indicate the existence of a physical or mental disability that may affect the safe operation of a motor vehicle by the applicant, the department may require an examination of the applicant by a licensed physician, psychiatrist, optometrist, or other competent medical authority before issuance of a driver's license. The expense of the examination must be paid by the applicant. The results of an examination within the previous six months will meet the requirement of this subsection, unless the condition has commenced or changed since that examination was conducted.

(b) An applicant for an original driver's license must furnish documentary proof of the applicant's date of birth, and one form of identification to verify the applicant's full legal name. The proof of date of birth and full legal name must consist of one of the following:

- (1) a certified original or certified copy of the person's United States birth certificate;
- (2) a United States or Canadian passport;
- (3) a foreign passport with the appropriate Immigration Status forms;

Register _____, _____ 2005 ADMINISTRATION

(4) a United States active duty, retiree, or reservist identification; or

(5) other evidence of comparable validity; "evidence of comparable validity"

includes items such as a United States government issued Consular Report of Birth Abroad or a court order.

(c) An applicant must provide a second form of identification as verification of the primary document presented. If the applicant has had a name change, the applicant must also provide legal documentation, determined acceptable by the department, to verify the change in name.

(d) An applicant must present the applicant's valid social security card for verification of the applicant's social security number or an approved waiver from the Social Security Administration or the Internal Revenue Service.

(e) An applicant must present documentation, acceptable to the department, that contains both the applicant's name and address of principal residence.

(f) The department may require that the applicant surrender the applicant's previously issued driver's license to the department at the time of issuance or renewal of a driver's license.

(g) If an applicant's driving privileges are under suspension or revocation in another jurisdiction, proof must be received from that jurisdiction showing that the suspension or revocation has terminated before issuance of a driver's license.

(h) An applicant for an original license, or renewal of a license that has expired for more than one year, must take vision and knowledge tests. A road test must be taken by an applicant for an original license, to remove an off road systems restriction, or by an applicant whose previous license was expired, suspended, revoked, or cancelled for five years or more from the

Register _____, _____ 2006 ADMINISTRATION

date of application. The department may waive the road test if the applicant possesses a valid driver's license issued by another jurisdiction. A test will be conducted as follows:

(1) the vision test will be conducted each time the applicant applies for a driver's license;

(2) the knowledge test will be conducted when the applicant applies for a driver's license; if the applicant does not pass the knowledge test the first time, the applicant may retake the test the following day; if the applicant does not pass the second, third, and subsequent tests, the department may continue to allow the applicant to retake the test once per day until the applicant passes the test;

(3) the department may conduct the first road test when the applicant satisfactorily meets all other requirements; a second road test will be conducted at least one week after the first test if the department determines it is necessary; further testing will be at the department's discretion and the department may require proof that additional driver training has been completed.

(i) An applicant for renewal of a driver's license must take the vision test unless renewing under AS 28.15.101(c), and must meet requirements set out in 2 AAC 90.440(d).

(j) The department will waive the road test requirement of this section for an applicant for an original or renewal of a driver's license if the

(1) applicant previously possessed the same class of driver's license under AS 28.15.041 or a similar statute of another jurisdiction; and

(2) driver's license was expired, suspended, revoked, or cancelled for less than five years from the current date of application. (Eff. 7/1/2006, Register 178)

Authority: AS 28.05.011 AS 28.05.031 AS 28.15.081

Identification & Proof of Date of Birth

State of Alaska Division of Motor Vehicles Standard Operating Procedures	SOP No.: D-20	Page No.: 1
	Effective: October 13, 2005	
Subject:	Supersedes: D-20	Dated: 6/1/00
IDENTIFICATION AND PROOF OF DATE OF BIRTH	Form No.:	
	Regulation: 13 AAC 08.330(b)	
Statute: AS 28.15.061		

Alterations | Foreign | Lost AK | Lost OOS | Primary ID | Secondary ID

ORIGINAL ALASKA DRIVER'S LICENSE or IDENTIFICATION CARD

Every person who makes an original application for a driver's license or permit must furnish documentary proof of his/her date of birth (See Primary Identification Documents) and at least one form of identification to verify his/her name (See Secondary Identification Documents). IF A PERSON HAS A VALID PHOTO DRIVER'S LICENSE ISSUED BY A STATE DMV, NO OTHER IDENTIFICATION IS REQUIRED.

CERTIFICATION BY CORRECTIONS, PROBATION OR ALASKA CHILDREN'S SERVICES IS NOT ACCEPTABLE.

PRIMARY IDENTIFICATION DOCUMENTS

1. An original or certified copy of a United States or Canadian birth certificate. The certificate must have a raised seal and be issued by an authorized government agency such as the Bureau of Vital Statistics or State Board of Health. Hospital issued certificates and baptismal certificates are not acceptable.
2. Canadian Department of Indian Affairs issued identification card. (Tribal issued card is not acceptable. A U.S. issued Department of Indian Affairs card is not acceptable.)
3. Court order which must contain the individual's full name, date of birth and court seal. Some examples include an adoption document, a name change document, gender change document, etc. It does not include an abstract of criminal or civil conviction.
4. Drivers license/permit issued by a State/Canadian DMV. Cannot be expired over one year.
5. Identification card issued by a State or Canadian DMV. Cannot be expired over one year.
6. Microfilm/copy of a drivers license issued by a State or Canadian DMV, provided it has been certified by DMV.
7. Microfilm/copy of an identification card that has been certified by the Issuing DMV.
8. Military identification card for active duty, retiree or reservist. (Service member only. Dependent military ID's are not acceptable as a primary document.)
9. Passport - U.S. or Canadian.
10. Report of Birth Abroad by a Citizen of the United States, issued by a U.S. consular officer.
11. The following Immigration and Naturalization Service (INS) documents are acceptable. The document must be an original and expired documents are unacceptable:

- Certificate of Naturalization (N-550, N-570, or N-578)
- Certificate of Citizenship (N-560, N-561, or N-645)

Identification & Proof of Date of Birth

- Northern Marianas Card
- American Indian Card
- United States Citizen Identification Card (I-179 or I-197)
- Resident Alien Card or Permanent Resident Card (I-551)
- Temporary Resident Card (I-688)
- Arrival-Departure Record (In a valid foreign passport) (I-94)
- Valid foreign passport containing an I-551 stamp
- Re-entry Permit (I-327)
- Refugee Travel Document (I-571)
- Employment Authorization Card or Employment Authorization Document (I-688A, I-688B, or I-766)
- Arrival-departure Record stamped "Refugee" (I-94) (Refugee's I94 will not likely be in a foreign passport)
- Canadian Immigration Record and Visa or Record of Landing (IMM 100).

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SECONDARY IDENTIFICATION DOCUMENTS

1. All primary documents
2. Bureau of Indian Affairs card or an Indian Treaty Card. (Some tribal cards are more reliable than the BIA card. DMV's can make their own determination.)
3. Driver license or ID card that has been expired over a year.
4. Court order that does not contain the applicant's date of birth.
5. Photographic employer identification card.
6. Foreign birth certificate.*
7. Foreign passport.*
8. Health insurance card [Blue Cross/Shield, Kaiser, Aetna, or a Health Maintenance Organization (HMO)].
9. Internal Revenue Service (IRS) or state tax form. A W-2 form is not acceptable.
10. Marriage license or certificate.
11. Individual's medical records from a doctor or a hospital.
12. Military dependent identification.
13. Military discharge or separation papers. (DD214)
14. Parent or guardian affidavit for minors, only. The parent or guardian must appear in person and prove their identity and submit a certified or notarized affidavit regarding the child's identity.
15. Gun permit.
16. Pilot's license.
17. Certified school record or transcript.
18. Social Security card (D-17). A metal card is not acceptable.
19. Photographic school identification card.
20. Vehicle title. A vehicle registration is not acceptable.
21. Welfare card.
22. Prison release document.

*See the following page for further information on foreign documents.

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Identification & Proof of Date of Birth

LOST ALASKA DRIVER LICENSE/PERMIT/I.D. CARD REQUIREMENTS:

- Two items from either the primary or secondary identification document list. In offices with ALVIN terminals the information on the computer may be used in place of one of the items provided the person can verify address, date of birth, place of birth, Social Security number and the physical description matches.
- Offices without computer terminals must contact a terminal office to verify that the status of the license is clear, in addition to the requirement of two items.
- In extreme cases, you may request a photo of the applicant from the Department of Public Safety, OL Photos. Examples of extreme cases are when an applicant is the victim of a house fire or when all identification documents have been lost or stolen. In these cases, request the photo by e-mail or by calling OLPHOTOS. Appendix D
Please include the full name of the applicant and their license or identification number, as well as the SSN and DOB, if available.

NOTE: Rent receipts, credit cards, and similar type documents are not to be used as proof of identity for issuance of an *original* driver license or ID card. They may be used for issuance of a duplicate OL or ID as a **last resort** and in conjunction with the ALVIN record.

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LOST OUT-OF-STATE LICENSE/PERMIT REQUIREMENTS:

- Furnish documentary proof of his/her identity and date of birth, the same as for an original license. Obtain verification of their license status from the state the applicant is currently licensed in.
- A PDPS check is required to verify eligibility.

ALTERATIONS

Any document that contains an alteration that changes the name, date of birth, or other pertinent information will not be accepted.

FOREIGN DOCUMENTS

Any primary or secondary document that is in a language other than English must be translated into English and must be accompanied by a Certificate of Accuracy of Translation by the person translating the document(s). DMV will accept the self-certification of anyone who certifies they have the competency to translate.

Cross Reference:

Appendix D DMV Addresses
D-073 Class D - Basic Driver License

NEXT SOP

Nancy Manly

To: Michael Bucy; Louie Flora

Subject: HB 290 Driver's License Bill - Rep Gruenberg's request for statutory authority

Michael:

Max wanted to know the statutory authority for DMV to make determinations on who can get a driver's license. that would be 28.05.011(b)2 and 28.15.061(b)5

If you have specific questions, give Jerry Luckhaupt a call. He can answer any specifics. I'll get copies of these down to both of you.

Nancy Manly, Staff for
Representative Bob Lynn
2794

4/5/2006

Sec. 28.15.061. Application for driver's license or instruction permit; notice of anatomical gift and living will procedure.

(a) Application for an instruction permit or for a driver's license must be made on a form furnished by the department and must be accompanied by the fee required under AS 28.15.271.

(b) An application under (a) of this section must

(1) contain the applicant's full name, date and place of birth, sex, and mailing and residence addresses;

(2) state whether the applicant has been previously licensed as a driver and, if so, when and by what jurisdiction;

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked or whether an application for a driver's license has ever been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(4) contain the applicant's social security number; the requirement of this paragraph only applies to an applicant who has been issued a social security number; and

(5) contain other information that the department may reasonably require to determine the applicant's identity, competency, and eligibility.

Chapter 28.05 ADMINISTRATION

Article 01. POWERS AND DUTIES OF DEPARTMENT OF PUBLIC SAFETY

Sec. 28.05.010. Powers and duties. [Repealed, Sec. 6 ch 178 SLA 1978].

Repealed or Renumbered

Sec. 28.05.011. Duty of commissioners to adopt regulations.

(a) The commissioner of public safety shall, unless otherwise provided by statute, adopt regulations in compliance with AS 44.62 (Administrative Procedure Act) necessary to carry out the provisions of this title and other statutes whose administration is vested in the Department of Public Safety. The regulations must include

(1) rules of the road relating to the driving, stopping, standing, parking, and other conduct of vehicles, to pedestrians, and to official traffic control devices; regulations adopted under this paragraph may not prohibit the use of an electric personal motor vehicle on a sidewalk, bike path, or vehicular way or area restricted to the use of pedestrians; limitations on regulation of electric personal motor vehicles imposed under this paragraph do not apply to a municipal ordinance regulating electric personal motor vehicles enacted to meet local requirements;

(2) minimum equipment for vehicles, including minimum standards of compliance to be met by manufacturers and vehicle sales and repairs businesses;

(3) inspection of vehicles other than commercial motor vehicles, and the removal of vehicles from areas of public use when they are found to be in a defective or unsafe condition;

(4) abandonment of vehicles;

(5) management of records of the Department of Public Safety required for that department's administration of this title and its regulations adopted under this title, including provisions for ensuring the accuracy of information contained in automated and manual information retrieval systems;

(6) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;

(7) certification and regulation of junk yards;

(8) *[Repealed, Sec. 5 ch 80 SLA 2003].*

(b) The commissioner of administration shall, unless otherwise provided by statute, adopt regulations in compliance with AS 44.62 (Administrative Procedure Act) necessary to carry out the provisions of this title whose administration is vested in the Department of Administration. The regulations must include, but are not limited to:

(1) registration, titling, and transfer of vehicles;

(2) licensing of drivers of vehicle and procedures for obtaining limited license privileges;

(3) financial responsibility relating to vehicles other than commercial motor vehicles;

(4) management of records of the Department of Administration required for that department's administration of this title and its regulations adopted under this title, including provisions for ensuring the accuracy of information contained in automated and manual information retrieval systems;

(5) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;

(6) registration of motor vehicle, trailer, and semi-trailer dealers;

(7) regulations necessary to implement a commercial motor vehicle driver's licensing program.

Sec. 28.05.015. Wheeled adjuncts.

The department shall, unless prohibited by an ordinance of a governmental subdivision of the state, allow pedestrians to use wheeled adjuncts, such as rollerblades, roller skates, and roller skis, on roadways and vehicular ways in addition to areas available for use by bicycles.

Sec. 28.05.020. Authority of highway commissioner. [Repealed, Sec. 6 ch 178 SLA 1978].

Repealed or Renumbered

Sec. 28.05.021. Commissioner to enter compacts and reciprocal agreements.

(a) The commissioner of administration may, under terms and conditions best calculated to promote the interests of the state, enter into a compact or agreement with an authorized representative of another jurisdiction in a matter relating to driver licensing, vehicle registration, or other activity authorized under this title, the administration of which is vested in the Department of Administration. The commissioner of public safety may, under the same terms and conditions, enter into a compact or agreement with an authorized representative of another jurisdiction in a matter relating to an activity authorized under this title, the administration of which is vested in the Department of Public Safety. A compact or agreement affecting state finances or driving privileges must be approved by adoption of a concurrent resolution approved by a majority vote of each house of the legislature before it becomes effective.

(b) *[Repealed, Sec. 28 ch 90 SLA 1991].*

Sec. 28.05.025. , 28.05.030 Authority of Department of Commerce and public safety commissioner. [Repealed, Sec. 6 ch 178 SLA 1978].

Repealed or Renumbered

Sec. 28.05.031. Department of Public Safety to publish statutes and regulations relating to vehicles, vehicle use, and pedestrians.

(a) The Department of Public Safety shall publish current state statutes and regulations relating to vehicles and their driving or movement, to drivers of vehicles, and to pedestrians. The cost of publication shall be jointly shared by that department and other state agencies that administer statutes

adn.com

Anchorage Daily News

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Measure targets driver's licenses

FEDERAL STANDARD: All states are required to tighten procedures.

By MATT VOLZ

The Associated Press

(Published: April 2, 2006)

JUNEAU -- A bill moving through the Legislature would not only require Alaska driver's license applicants to prove they are here legally, it would also place restrictions on licenses given to legal noncitizens such as foreign students.

The goal is to keep that benefit out of the reach of illegal immigrants while keeping closer tabs on those here legally, said bill sponsor Sen. Charlie Huggins, R-Wasilla.

"This isn't about compassion or understanding, it's about the set principle: If you're legal in this country, you enjoy the benefit of being legal. If you're illegal, you don't get afforded the same privileges," Huggins said.

Huggins' bill would set into law a requirement of proof of a person's legal presence through two forms of documentation.

Plus, for a noncitizen living in the United States legally, such as a foreigner studying at the University of Alaska Fairbanks, a driver's license would be valid just for the period of time the student is authorized to stay in the nation.

If the noncitizen's authorized stay is indefinite, that person would be required to renew the license every year.

"Let's take the student-status scenario -- I think it's reasonable for us as Alaskans and our nation to be able to identify where those people are," Huggins said.

Huggins' bill would bring the state closer to compliance with a federal law passed last year. The Real ID Act was motivated by the 2001 terrorist attacks and creates driver's license standards meant to make it harder to get a license fraudulently.

The deadline for states to comply with the new law is May 2008. After that, license holders from states that don't meet the requirements will have to use some other form of identification to board airplanes or enter federal buildings.

Alaska Division of Motor Vehicles head Duane Bannock said states can choose not to comply, but their licenses would become second-tier identity cards.

"I am not interested in leading Alaska down that road," Bannock said. "I think it's a good mandate."

Bannock said Alaska is closer than many other states to compliance since upgrading to an online Social Security verification system to keep people from using fake documents to obtain driver's licenses.

The lack of a verification system was one factor in a 2004 study that ranked Alaska's DMV near the bottom in checking applicants' identities.

Thirty-nine states and the District of Columbia have either laws or regulations that require a person to prove he is in the nation legally to get a driver's license, according to the National Immigration Law Center.

Alaska has an estimated 5,000 to 7,000 illegal immigrants within its borders, much fewer than many other states.

But proponents say the driver's license measure would discourage future illegal immigrants from settling permanently.

"You have to remember that driver's licenses are a fundamental form of identity in our country that may, among other things, be shown to an employer to establish an identity for work purposes," said Jack Martin, special projects director for the Federation for American Immigration Reform in Washington, D.C.

Tyler Moran, a policy analyst with the National Immigration Law Center in Los Angeles, said states' push for stricter license laws since the 2001 attacks are largely misguided.

"They tried to scare state legislatures by equating 'immigrant' with 'terrorist,'" Moran said.

But other states such as New Mexico view it as a safety issue, she said. Illegal immigrants who have licenses had to pass a driver's test and have car insurance to get those licenses, whereas unlicensed drivers did not.

Several states have estimated their costs to change their systems to comply with the Real ID Act could be as high as \$33 per license, according to a National Conference of State Legislatures report.

Huggins' bill estimates a cost to the state of \$20,000. That would be the amount spent on changes to the database, Bannock said.

Bannock acknowledged that \$20,000 did not reflect the full cost of meeting the standards of the Real ID Act, but not all the details of the new federal act are known and he is unable to estimate the total costs.

Huggins' bill last week passed the Senate Finance Committee, its third committee this year, and is bound for the Senate floor after the Rules Committee chairman sends it on. A companion bill by Rep. Bob Lynn, R-Anchorage, has not yet gotten a hearing.

The bills are Senate Bill 189 and House Bill 290.

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13 AAC 08.330. Requirements of applicant

(a) All applications for driver's licenses must be made on the form provided by the department. The application will include questions concerning a person's eligibility for a license, including the existence of physical or mental conditions which may impair the ability of the person to operate a motor vehicle safely. If the answers to these questions indicate the existence of a physical or mental disability which may affect the safe operation of a motor vehicle by an applicant, the department will, in its discretion, require an examination of the person by a licensed physician, psychiatrist, optometrist, or other competent medical authority before issuance of a driver's license. The expense of the examination must be paid by the applicant. The results of an examination within the previous six months will suffice unless the condition has commenced or changed since that examination.

(b) A person who makes an original application for a driver's license must furnish documentary proof of the person's date of birth, and one form of identification to verify the person's name. The proof of date of birth may consist of one of the following:

(1) an original or certified copy of the person's birth certificate;

Parents affidavit

(2) an out-of-state driver's license;

(3) a passport; or

(4) other evidence of comparable validity. The form of identification may consist of items such as identification card, social security card; credit card; life insurance policy; or any other evidence of comparable validity.

(c) The department will, in its discretion, require that a previously issued driver's license be surrendered to the department at the time of issuance or renewal of an Alaska driver license

(d) If an applicant's driving privileges are under suspension or revocation in another jurisdiction, the applicant must obtain written proof from that jurisdiction showing that the suspension or revocation has terminated before issuance of an Alaska license.

(e) Any applicant for an original license or renewal of a license expired more than one year must take vision, knowledge, and road tests. The road test will, in the department's discretion, be waived if applicant possesses a valid license issued by another jurisdiction. Tests will be conducted as follows:

(1) the vision test will be conducted at the time the applicant applies for a driver's license;

(2) the knowledge test will be conducted when the applicant applies for a driver's license. If not passed the first time, it may be retaken the following day; if not passed the second time, third and subsequent tests will be, in the department's discretion, administered at weekly intervals;

(3) the first road test will be, in the department's discretion, conducted the day the applicant satisfactorily meets all other requirements; a second road test will be conducted one week after the first test if the department finds it necessary.

(f) An applicant for renewal of an Alaska driver's license must take the vision test, and must meet requirements set out in 13 AAC 08.340(d).

History: Eff. 5/2/81, Register 78; am 8/9/84, Register 91; am 10/2/92, Register 125; am 4/2/94, Register 129

Authority: AS 28.05.011

AS 28.05.031

AS 28.05.081

13 AAC 08.335. Driver license renewal extension for active duty military personnel

Except as otherwise provided in this chapter, a non-commercial driver's license issued under this chapter to a person who is an active duty member of the United States armed forces and stationed outside the state expires upon the earlier of the following dates:

- (1) 90 days after discharge from active duty of the United States armed forces; or
- (2) 90 days after the person's return to the state.

History: Eff. 6/15/97, Register 142

Authority: AS 28.05.011

AS 28.15.101 (b)

13 AAC 08.340. Medical standards

(a) A person who has an uncontrolled seizure disorder or other uncontrolled episodes of loss of conscious control will not be licensed. The department will, in its discretion, grant a license to a person who has a seizure disorder or history of other episodes of loss of conscious control after receiving a statement from the applicant's physician that the applicant has been seizure- and episode-free for six months, has the condition under control, and can safely operate a motor vehicle. If a seizure or episode of loss of conscious control occurs after issuance of a license, the license must be surrendered to the department.

(b) Persons with any other condition which is characterized by or may result in loss of control or lapse of consciousness, including but not limited to cerebral strokes and cardiovascular and hypertension disorders, will not be licensed unless a physician's statement is received stating that the applicant or licensee has the condition under control and can safely operate a motor vehicle.

(c) The department will, in its discretion, require an annual physical examination to insure that a licensee's physical condition remains under control.

(d) An applicant must meet the following visual standards:

(1) a person with vision of 20/40 or greater in each eye or both eyes together will receive a license without restrictions in regard to corrective lenses, unless medical or other problems affecting vision

exist;

(2) a person with vision of 20/40 or greater in each eye or both eyes together only with use of corrective lenses will be restricted to driving with corrective lenses;

(3) a person with the best possible corrections in both eyes together of less than 20/40 but greater than 20/100 will be required to be examined by an optometrist or other eye specialist; if the report states that the person's vision cannot be improved, all data will be reviewed by the department; after review, the department will, in its discretion, issue a license with restrictions which may include driving limitations as to time of day, type of vehicle, specific area, speed, and other limitations considered necessary by the department;

(4) a person whose best possible corrections in both eyes together of less than 20/100 will not be licensed;

(5) a person with vision in only one eye will be licensed if vision in the good eye meets the standards of the department; the department, will, in its discretion, impose restrictions requiring outside rearview mirrors, one mounted on each side of the vehicle, on persons with vision in only one eye;

(6) a person with color blindness will not be denied a license for that reason;

(7) a person wearing telescopic or compound lenses whose field of vision is less than 60 percent will not be licensed unless he or she is able to meet the requirements for visual acuity without the aid of the lenses; if field of vision is between 60 percent, and 90 percent, outside rearview mirrors will, in the department's discretion, be required;

(8) a person with a progressive eye disease or condition such as cataract, glaucoma, iritis, nystagmus, or other disease affecting vision or visual fields will not be licensed unless his or her physician states that the condition will not affect his or her ability to drive safely; if licensed, future periodic vision reports must be submitted to the department by his or her physician until the condition is cured or stabilized.

(e) Persons who are deaf, hard of hearing, or wear hearing aids will not be denied a driver's license for that reason. However, the driver's license issued to such individuals will, in the department's discretion, contain a restriction requiring outside rearview mirrors, one mounted on each side of vehicle.

(f) A habitual user of alcohol will not be licensed. A "habitual user of alcohol" is anyone with three or more convictions for driving while intoxicated or other alcohol-related driving offenses within the immediately preceding five-year period. The person must keep the drinking problem under control for one year before being eligible for re-evaluation to determine if driving privileges can be reinstated. Verification of control of the drinking problem can be provided by a physician, an Alcoholics Anonymous sponsor, or three notarized affidavits by persons who know the person well regarding his drinking habits.

(g) A person who is a habitual user of drugs to a degree which renders him incapable of safely driving a motor vehicle will not be licensed. When evidence is received which shows that a person's driving may be impaired by habitual use of drugs, a license will not be issued or renewed unless a physician licensed to practice medicine in Alaska submits a statement that the licensee's use of drugs will not impair the person's safe operation of a motor vehicle.

History: Eff. 5/2/81, Register 78; and 8/9/84, Register 91

Author: AS 28.05.011

AS 28.15.011

AS 28.15.081

13 AAC 08.350. Re-examination requirements

- (a) If the department has good cause to believe that a licensee is physically or mentally incompetent to operate a motor vehicle safely, or is otherwise not qualified to be licensed, the department will, in its discretion, require the licensee to submit to a physical, mental or driver's examination to determine the licensee's fitness to operate a motor vehicle safely. If the department determines from the results of any examinations that the licensee is unfit to operate a motor vehicle safely, the department will either cancel the licensee's privileges to operate a motor vehicle in this state or issue a restricted license.
- (b) A licensee who suffers permanent loss of a hand, arm, foot, leg, or eye must report to the department before operating a motor vehicle. The department will, in its discretion, require a re-examination of driving ability and restrict the license to operation of vehicles with special equipment.
- (c) The department will, in its discretion, require re-examination of a licensee based on a request from a criminal justice agency, physician, or member of the general public. The request must state the need for a re-evaluation by providing specific information pertaining to the person's operation of a motor vehicle or physical condition. Requests must be in writing, and may not be anonymous. Requests will be treated with confidentiality if requested by the person submitting the report.
- (d) When the department is notified by means of a request under (c) of this section that a licensee might not be qualified to operate a motor vehicle safely, the department will, in its discretion, require the licensee to be re-examined. The department will notify the licensee what examinations are necessary. The licensee may retain his or her driver's license if examinations are satisfactorily completed.
- (e) The department will, in its discretion, cancel or suspend the license of a person who refuses to submit to re-examination.

History: Eff. 5/2/81, Register 78

Authority: AS 28.05.011

AS 28.15.091

13 AAC 08.355. Special driver's license (hardship license)

- (a) Because of death, incapacitating illness or injury or other unique conditions in the immediate family, a special driver's license will, in the department's discretion, be issued to a person between 14 and 16 years of age who must drive a motor vehicle to
- (1) prevent financial hardship for the person's family; or
 - (2) transport an ill or disabled family member.
- (b) A special license issued under this provision will expire on the licensee's date of birth as provided in

AS 28.15.101 (a), or sooner if the reasons for issuing the special license are not longer sufficient.

(c) A letter requesting a special license must be signed by the applicant's parent or guardian, specify the conditions of hardship, and indicate for what period of time the special license is necessary.

(d) An applicant for a special license must meet all requirements for a regular driver's license, with the exception of age.

History: Eff. 8/9/84, Register 91

Authority: AS 28.05.011 (5)

AS 28.15.041 (a)

AS 28.15.051 (e)

AS 28.15.081



Louie Flora

From: Neil McArthur [mca@xyz.net]
Sent: Saturday, March 11, 2006 7:03 PM
To: Louie Flora
Subject: HB 290

Louie,

Re: HB 290. What's this about requiring US citizenship for issuance of a state ID or driver's license? How do perfectly legal resident aliens get an ID or a license? For instance, my ex-wife has been a legal resident alien (from Canada) in Alaska for close to 40 years. Is she supposed to stop driving and have no photo-ID? I can see requiring proof of legal status, but not requiring citizenship. -- Neil McArthur

Legislative Research Services

Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services

State Capitol, Juneau, AK 99801
Phone: 907-465-3991
Fax: 907-465-3908

March 15, 2006

Memorandum

TO: Representative Max Gruenberg

FROM: Becky Taylor
Legislative Analyst

RE: Driving Certificate Programs in Other States
LRS 06.182

You asked which states have created documents to allow non-citizens to legally operate motor vehicles

In 2004, Tennessee became the first state to create a "certificate for driving" for non-citizens, including those who are in the country illegally. Utah created a similar "driving privilege card" in 2005, and in 2006 the Virginia General Assembly considered legislation creating "certificates for driving." The Virginia bill has been carried over for consideration in the next session.

The Tennessee act required applicants for driver's licenses to document U.S. citizenship or lawful permanent residency status. All other applicants, including undocumented immigrants and people legally in the country for a finite period of time, were eligible only for the new certificates. In February of 2006, the Tennessee Department of Safety announced plans to stop issuing certificates for driving to people who cannot demonstrate legal presence in the U.S. due to "issues with implementation." According to the department's news release, certificates for driving will still be available to individuals who are legally present in the U.S., such as individuals with work or student visas. The release also noted that the department will work with legislators to allow individuals who are legally present to obtain regular driver's licenses for the length of their legal stay in the country.

In 2005, the Utah Legislature passed SB 227 which provides for a driving privilege card for people, including undocumented immigrants, who can prove Utah residency, but do not have Social Security numbers. That year the legislature also passed HB 223, which allows citizens of other countries who can demonstrate legal presence in the U.S. to receive driver's licenses.

Proponents of the Tennessee and Utah certificate programs argue that they provide a mechanism for undocumented immigrants to receive proper training about the rules of the road and to obtain auto liability insurance. Supporters note that undocumented immigrants will probably still drive even if they cannot do so legally, and that it is in the interest of public safety to allow them to become trained, insured, licensed drivers. Some critics, however, argue that it sends the wrong message for the state to be providing this privilege to people who are in the U.S. illegally. At the same time, immigrant advocacy groups protest that these programs foster discrimination against certificate holders.

In both states the certificates clearly display that they are for driving purposes only and are not valid for identification. According to the Tennessee Immigrant and Refugee Rights Coalition, under the Tennessee law certificates are not meant to be valid as identification in any circumstances. As a result, certificate holders have encountered difficulty obtaining housing, medical care, education and banking services. Under the Utah law driving privilege cards cannot be used as identification for government purposes, but may be accepted by private institutions, such as banks.¹

¹ "The Tennessee Driving Certificate—Background, Pitfalls, and Lessons Learned," Tennessee Immigrant and Refugee Rights Coalition, June, 2005, available at <http://www.tnimmigrant.org>

We have identified and assembled a number of relevant laws and related commentary for your convenience. We also include a summary of the REAL ID Act of 2005, which imposes federal standards on state issued driver's licenses and identification cards.

Tennessee (Attachment A)

- ◆ Chapter 778, Public Acts, 2004, Tennessee.
- ◆ Bill Summary for SB3430/HB3486, Tennessee General Assembly.
- ◆ "TDOS Suspends CFD Program for Undocumented Individuals," T Safety, February 24, 2006, available at <http://www.state.tn.us/safety/ne>
- ◆ Lucas Johnson, "Tennessee Stops Issuing Driving Certificates to Illegal Immigrants," *The Seattle Times*, February 25, 2006.
- ◆ "The Tennessee "Driving Certificate" Not a Model Policy," National Immigration Law Center, March 2005, available at <http://www.nilc.org>.
- ◆ "The Tennessee Driving Certificate—Background, Pitfalls, and Lessons Learned," Tennessee Immigrant and Refugee Rights Coalition, June, 2005, available at <http://www.tnimmigrant.org>.

- Used for insurance
but
NOT for identification

Utah (Attachment B)

- ◆ Senate Bill 227, Enrolled, 2005 General Session, Utah State Legislature.
- ◆ House Bill 223, Enrolled, 2005 General Session, Utah State Legislature.
- ◆ "Senate Bill 227- Public Safety Driving and Identification Card Amendments-Questions and Answers," Department of Community and Culture, Utah State Office of Ethnic Affairs, available at <http://driverlicense.utah.gov/>.
- ◆ Letter from John M. Schaff, Auditor General to Senator Curtis Bramble, Subject: Results of Sample Matching Driving Privilege Cards to Vehicle Insurance, January 25, 2006, available at <http://senatesite.com/blog/2006/01/driving-privilege-card.html>.
- ◆ Joseph Dougherty, "Utah Issuing Driving Cards," *Deseret Morning News*, March 11, 2005, available at <http://deseretnews.com>

Virginia (Attachment C)

- ◆ House Bill 1586, Introduced, 2006 Session, Virginia General Assembly.
- ◆ Bill Burke, "Certificate for Driving" Bill Would Ease ID Rules," *Hampton Roads News*, January 30, 2006, available at <http://hamptonroads.com>.

REAL ID Act Information (Attachment D)

- ◆ T.R. Reid and Darryl Fears, "Driver's License Curtailed as Identification," *Washington Post*, April 17, 2005, available at <http://www.washingtonpost.com>.
- ◆ "REAL ID Act of 2005 Driver's License Title Summary," National Conference of State Legislatures, 2005.

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

CHAPTER NO. 778

SENATE BILL NO 3430

By Ketron, Cooper, Crutchfield, Herron

Substituted for: House Bill No. 3486

By McMillan, Pinion, Mr. Speaker Naifeh, Fitzhugh, Coleman, Maddox, Montgomery, Roach, Buttry, Bowers, Yokley, Michael Turner

AN ACT to amend Tennessee Code Annotated, Sections 55-50-102, 55-50-303, 55-50-321, 55-50-322, 55-50-323, 55-50-331, 55-50-332 and 55-50-337, relative to driver license issuance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-50-102, is amended by adding the following new subsections (18) and (29) and by renumbering the remaining subsections accordingly:

(18) "Certificate for driving" means a certificate issued by the department to an individual who does not satisfy the requirements of § 55-50-321(c)(1)(C)(i) or (ii). Such certificate for driving shall be clearly distinguishable from a driver license and shall clearly display on its face a phrase substantially similar to

"FOR DRIVING PURPOSES ONLY – NOT VALID FOR IDENTIFICATION".

(29) "Lawful permanent resident" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

SECTION 2. Tennessee Code Annotated, Section 55-50-303(a), is amended by adding the following subdivision:

(9) To any person who is not a United States citizen or lawful permanent resident of the United States.

SECTION 3. Tennessee Code Annotated, Section 55-50-321(c)(1), is amended by adding the following new subdivisions:

(C) Any applicant applying for a driver license, instruction permit, intermediate driver license or photo identification license, upon initial issuance or reinstatement, shall provide either an original or certified copy of one of the following:

(i) Documentation that the applicant is a citizen of the United States; or

(ii) Documentation issued by the United States government establishing that the applicant is a lawful permanent resident.

(D) Any applicant who has received an initial issuance of a driver license since January 1, 2001, shall provide documentation as required in subdivisions (C)(i) or (C)(ii) upon the first renewal date of such license.

SECTION 4. Tennessee Code Annotated, Section 55-50-322(a)(1)(A), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The department shall examine every applicant for a driver license, intermediate driver license, learner permit, or certificate for driving, except as otherwise provided in this part.

SECTION 5. Tennessee Code Annotated, Section 55-50-323, is amended by adding the following language as a new, appropriately designated subsection:

() The fee charged for a certificate for driving issued pursuant to § 55-50-331(g) or § 55-50-331(h) shall be the same as the fee charged for a five year Class D license.

SECTION 6. Tennessee Code Annotated, Section 55-50-331, is amended by adding the following new subsections:

(g) Notwithstanding any other provision of law to the contrary, the department may issue a certificate for driving to persons whose presence in the United States has been authorized by the federal government for specific purpose and for specified period of authorized stay. Such certificate of driving shall be valid only during the period of the time of the applicant's authorized stay in the United States, provided that no certificate shall be issued for a period of less than one (1) year or longer than five (5) years.

(h) Notwithstanding any other provision of law to the contrary, the department may issue a certificate for driving to persons who do not satisfy the requirement of § 55-50-331(g) or the requirements of § 55-50-321(c)(1)(C). Such certificate for driving shall be valid for a period of one (1) year. Except as otherwise provided in this act, all laws applicable to driver licenses and financial responsibility shall also apply to certificates for driving. All laws applicable to convictions, suspensions, cancellations, and revocations of driver licenses shall also apply to certificates for driving.

(i) Any applicant applying for a certificate for driving, upon initial issuance, renewal or reinstatement, shall meet the requirements of this subsection.

SECTION 7. Tennessee Code Annotated, Section 55-50-332, is amended by adding the following subsection:

(c) Duplicate certificates for driving obtained in place of such certificates for driving, issued pursuant to § 55-50-331(g) or § 55-50-331(h), shall be valid during the period of time specified in such subsections.

SECTION 8. Tennessee Code Annotated, Section 55-50-337, is amended by adding the following subsections:

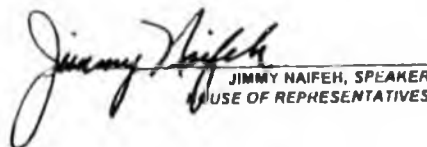
(c) Notwithstanding any other provisions of law to the contrary, certificates for driving issued pursuant to § 55-50-331(g) or § 55-50-331(h) shall be valid during the period of time specified in such subsections.

(d) Any person issued a license or permit prior to the effective date of this act, who is subject to the provisions of §55-50-331(g) or §55-50-331(h) shall, upon renewal or reapplication, receive, if otherwise eligible, a certificate for driving which shall expire in accordance with such subsections.

SECTION 9. The department is authorized to promulgate public necessity rules to implement the provisions of this act by July 1, 2004. For all other purposes, Sections 2 and 3 of this act shall be effective upon becoming a law, the public welfare requiring it. Section 1 and Sections 4 through 8 of this act shall become effective July 1, 2004, the public welfare requiring it.

PASSED: May 12, 2004


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 26th day of May 2004


PHIL BRÅDESEN, GOVERNOR

103rd General Assembly Archives

HB3486 by *McMillan, *Pinion, *Naifeh, *Fitzhugh, *Coleman, *Maddox, *Montgomery, *Roach, *Buttry, *Bowers, *Yokley, *Turner M. (*SB3430 by *Crutchfield, *Ketrn, *Kilby, *Cooper, *Herron.)

Driver Licenses - Establishes certificate of driving to be issued to applicants who are not US citizens or lawful permanent residents; certificates for driving purposes only and not valid for identification. - Amends TCA Section 55-50-303; Section 55-50-321; Section 55-50-322; Section 55-50-323; Section 55-50-331; Section 55-50-332; Section 55-50-337 and Section 55-50-102.

Fiscal Summary for

State Revenues - Net Decrease - \$112,000 1st Year \$68,000 2nd Year

Bill Summary for

Present law requires applicants for driver licenses to provide their social security number; however, applicants who do not have, or who state that they were not issued, a social security number may be granted a driver license if the applicants submit an affidavit, under penalty of perjury, affirming that they were not issued a social security number. This bill would require the above persons to provide documentation that the applicant is a citizen of the United States or documentation issued by the U.S. government establishing the applicant's legal presence in this country. This bill would specify that the issuance of a driver license or permit to persons who are not United States citizens but who are otherwise legally present in this country is authorized. Such licenses or permits would be valid for the length of the person's stay or for one year if there is no definite end to the authorized period of stay. The license or permit may only be renewed upon presentation of documentation verifying that the person continues to be authorized to be in the country. For persons who do submit the information required by this bill, the department of safety would issue a certificate of driving instead of a driver license or permit. The certificate would be valid for a period of one year. The certificate must be distinguishable from a driver license and must indicate that it is valid only for driving and not for identification. ON MAY 10, 2004, THE SENATE ADOPTED AMENDMENTS #1 AND #2 AND PASSED SENATE BILL 3430, AS AMENDED. AMENDMENT #1 allows the issuance of driver licenses for qualified applicants who are lawful permanent residents and creates different rules for certificates of driving depending upon whether the applicant is in the country legally. For legal aliens, the certificates would be issued for the length of the applicant's stay, but no less than one year and no longer than five years. For illegal aliens, the applicant would have to meet all requirements for licensure other than proving their legal status in the country, including compliance with the financial responsibility laws. Also, for illegal aliens, the certificates would be valid for one year. All certificates of driving would be required to state that they are not valid for identification. This amendment requires the fee for a driving certificate to be the same as that for a Class D driver license instead of prorating the fee. AMENDMENT #2 removes this bill's requirement that applicants show proof of citizenship or lawful permanent residence status each time

they renew a driver license, thereby limiting the times when such proof would be required to an application for initial issuance or reinstatement EXCEPT this amendment requires applicants who received an initial issuance since January 1, 2001 to provide such documentation on their first renewal date. This amendment also clarifies that all of the rules and regulations relevant to driver licenses, other than residency or citizenship requirements, would apply to any person who was issued a certificate of driving. Finally, this amendment authorizes the department of safety to promulgate public necessity rules in order to give this bill effect by July 1, 2004.



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TDOS Suspends CFD Program for Undocumented Individuals

Entire Program to Undergo Review



Left to Right: TBI Director Mark Gwyn, Interim Commissioner Gerald Nicely, and Tennessee Homeland Security Director David Mitchell announce changes implemented to the Certificate for Driving program.

February 24, 2006

NASHVILLE, Tenn., --- The Department of Safety will immediately halt the issuance of Certificates for Driving to people who cannot prove they have legal presence in the U.S.

"It's clear from talks with law enforcement authorities that there are issues with this program that need to be addressed. The only responsible course of action is to suspend the program while we determine the next steps," said Governor Phil Bredesen.

Interim Safety Commissioner Gerald Nicely echoed the Governor's sentiments. "This program was a good idea in theory," he said. "But there have been issues with implementation. I want to give it a thorough review to ensure that we are doing what's best for Tennesseans." Governor Bredesen has asked TBI Director Mark Gwyn and Tennessee Homeland Security Director David Mitchell to work with Nicely on the review process.

Nicely says internal issues at the Department of Safety also make the change a prudent move at this time. "The department may undergo significant changes in the next year," he said. "Putting the program on hold allows us to move forward while we examine this issue more

closely."

Certificates for Driving will still be available to people with work visas and student visas, which meet the standard for legal presence in the United States. The department will also work with legislators on a measure that would allow persons with legal presence to obtain regular driver licenses good for the length of their stay in the U.S.

No CFDs will be issued to anyone between today and March 5th, to give the department time to train employees on who is still eligible for the certificates, and what documentation will be required. Certificates will be issued to eligible applicants beginning Monday, March 6th.

Nicely added, "The bottom line is this: immigration is essentially a federal issue. But ensuring the security of Tennesseans is a state issue, and it's one that both the Governor and I take very seriously."

The Tennessee Department of Safety (www.tennessee.gov/safety) is responsible for ensuring the safety and general welfare of the traveling public. The department's general areas of responsibility include law enforcement, safety education and motorist services including the issuance of driver licenses and title and registration activities. The department and its highly trained staff of Troopers are responsible for safety on more than 15,000 miles of state and federal highways.

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Department of Safety
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Lucas Johnson. "Tennessee Stops Issuing Driving Certificates to Illegal Immigrants." *The Seattle Times*, February 25, 2006

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Tennessee stops issuing driving certificates to illegal immigrants

By LUCAS L. JOHNSON II
The Associated Press

NASHVILLE, Tenn. — Tennessee stopped issuing driving certificates to illegal immigrants Friday after investigators learned out-of-state applicants were using fake papers and bribes to get cards.

The program could be scrapped after a review by state investigators, Safety Commissioner Jerry Nicely said.

The cards give holders the legal right to drive but, unlike driver's licenses, they are not supposed to be used for identification. For instance, they cannot be used to board an airplane.

The program was meant to improve driving safety by ensuring immigrants knew traffic rules.

One major problem, Nicely said, was the variety of documents, such as utility bills or housing leases, that people could use to prove they lived in Tennessee. The department was flooded with certificate requests, and employees were overwhelmed trying to verify the paperwork, he said.

The wallet-size certificates were labeled "not valid for identification" in bold red letters, but federal prosecutors say banks accepted them as legal identification and they could be passed off as official ID at other places.

A dozen people pleaded guilty in recent months after two federal investigations found shuttles from as far away as New Jersey had brought South and Central American immigrants with fake residency papers to get certificates at state licensing centers in Knoxville.

In January, federal prosecutors filed charges that state license examiners in Murfreesboro accepted bribes to provide out-of-state illegal immigrants with driver's licenses and certificates. Two people were sentenced to two years in prison after pleading guilty, and others are awaiting trial.

The schemes could have resulted in hundreds of fraudulent certificates, officials said.

In early 2001, the state started issuing full driver's licenses without requiring a Social Security number, and more than 180,000 people obtained licenses. The driving certificates were created in 2004 to satisfy homeland-security concerns: about 51,000 were issued. Utah has a similar program.



This is a sample Tennessee certificate for driving.



Tennessee Safety Commissioner Jerry Nicely said the program could be scrapped.

Gov. Phil Bredesen said Friday he's not abandoning the program but wants some changes.

"I'm not sorry we went down that road," Bredesen said. "I'm concerned enough about implementation issues to put a hold on this for the time being until we get ourselves sorted out and get a good strategy."

The American Civil Liberties Union of Tennessee, which had favored full driver's licenses, was critical of the decision to suspend the certificates.

"The certificate program, while discriminatory to begin with, at least ensured that drivers were trained and had insurance," Executive Director Hedy Weinberg said.

Material from the Los Angeles Times is included in this report.

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THE TENNESSEE "DRIVING CERTIFICATE" Not A Model Policy

March 2005

■ Background

In 2001, Tennessee passed a law that allowed individuals without a Social Security number (SSN) to apply for a driver's license—in effect, allowing issuance of driver's licenses without regard to citizenship or immigration status. Despite the good results that this law already had produced, it fell victim to election-year politics and false allegations that it compromised state and national security, and it was repealed in 2004. The new law, which took effect on July 9, 2004, makes driver's licenses available only to U.S. citizens, lawful permanent residents, refugees, and asylees. All other applicants are eligible only for a "certificate for driving" that on its face bears the notation (in red lettering on a white background): "FOR DRIVING PURPOSES ONLY. NOT VALID FOR IDENTIFICATION."

Tennessee is the first state in the country to issue such a driving certificate, and its law has drawn the attention of federal and state policymakers and immigrants' advocates. However, the Tennessee driving certificate should not be considered a model policy. The new law has created additional burdens for law enforcement agencies, increased the number of uninsured drivers on the road, and has led to a rise in discrimination against immigrants. Tennessee legislators on both sides of the aisle are dissatisfied with the new law.¹ Similar laws pending in other states would likely produce the same harmful consequences.

■ The Tennessee "driving certificate" policy threatens highway safety and increases the number of uninsured drivers.

Two years after Tennessee changed its law to make driver's licenses available to all residents regardless of their immigration status, the Tennessee Highway Patrol reported a 23 percent decrease in road fatalities.² This drop can be attributed partially to the fact that new licenses were issued to many drivers who were required to learn the rules of the road. Early reports indicate that many immigrants do not apply for the driving certificate because they are concerned that they will face discrimination or be reported to immigration authorities.³ As a result, the number of unlicensed and uninsured drivers on Tennessee's roads will grow, which is likely to increase the number of accidents. Nationally, unlicensed drivers are almost five times more likely to be in a fatal crash than are validly licensed drivers.⁴ And, some insurance companies in Tennessee are refusing to issue auto insurance to certificate holders, or charging exorbitantly high rates because

¹ "Legislators Already Want 'Certificate of Driving' Law Revamped," Associated Press, July 2, 2004.

² Tennessee Highway Patrol Activity Report FY00-01—FY02-03.

³ Blair Dedrick, "Driving Certificates in Low Demand," *The Commercial Appeal*, July 16, 2004.

⁴ Lindsey Griffin, *Unlicensed to Kill*, AAA Foundation for Traffic Safety, 2000.



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the driving certificate is considered a second class driving permit.⁵ This inevitably will increase the number of uninsured drivers in Tennessee.

- **The Tennessee "driving certificate" diverts scarce law enforcement resources.**

Tennessee law allows law enforcement officers to issue a citation for a misdemeanor rather than having to arrest the alleged violator. However, a citation can be issued only if the alleged violator can provide identification. Since the Tennessee driving certificate is "not valid for identification," local law enforcement officers can arrest drivers for minor traffic violations instead of issuing them tickets. This wastes scarce and valuable state resources and diverts law enforcement efforts that are needed to protect public safety and domestic security. Tennessee law enforcement agencies have expressed dramatically conflicting views about whether the certificate can be used as identification, with some jurisdictions accepting the certificate as identification and some stating that they will not accept it. The policy changes from one town to another and creates fear and confusion about whether the certificate will be accepted by law enforcement. Policies that discourage contact with the police undermine effective law enforcement.

- **The Tennessee "driving certificate" has deterred foreign business executives from moving to Tennessee.**

Some foreign business executives have decided not to move to Tennessee because they are afraid of how they would be treated if they have a certificate. This policy discourages foreign investment and talent from moving to Tennessee because the certificate limits noncitizens' ability to perform daily activities. Noncitizens with student visas or fellowships at state universities who are eligible only for a certificate have found that they have difficulty obtaining auto insurance, renting a car, opening a bank account, and renting an apartment.

- **The Tennessee "driving certificate" imposes administrative and financial burdens on the state.**

Already overburdened driver's license clerks are now forced to verify all applicants' immigration documents. Their workload has increased because the certificates must be renewed each year. The lack of sufficient training (necessary because of changing immigration requirements) means that these clerks are unable to correctly interpret the immigration documents that are presented as proof of lawful presence. This law is also costly. The fiscal note on the bill calculated only the decrease in revenue from implementing the certificate—\$180,000 over two years. However, the fiscal note did not address the increased costs associated with the new law, including the initial and continuing training of driver's license clerks, the hiring of additional clerks, the cost of creating a separate certificate, and the reprogramming of computers. Other states that have implemented lawful presence requirements have estimated these higher costs. For example, Virginia's Dept. of Motor Vehicles concluded that a proposal to restrict drivers' licenses to those who can prove they are legally present in the United States would cost Virginians \$5.5 million dollars per year.⁶ A state budget estimate in Washington State concluded that it would cost almost \$1 million dollars over five years to ensure that immigrants' driver's licenses expire with their visas.

⁵ Jennifer Price, "Immigrants Learn What Driving Certificates Won't Do," *The Tennessean*, January 14, 2005.

⁶ Commonwealth of Virginia, Department of Motor Vehicle, Report to the Chairman of the Transportation Committee of the Virginia Senate, 2002.

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⁶ Commonwealth of Virginia, Department of Motor Vehicles, Report to the Chairman of the Transportation Committee of the Virginia Senate, 2002.

■ **The Tennessee "driving certificate" has led to a rise in discrimination against immigrants.**

Immigrants who hold a driving certificate have reported that they have been treated unfairly in court, at the driver's license testing centers, and in other situations where identification is required. At driver's license testing centers, clerks have improperly denied licenses and certificates to eligible immigrants and U.S. citizens because they don't understand how to read immigration documents or proof of U.S. citizenship. A study conducted by the University of Tennessee Law School on how Tennessee's new certificate was faring in East Tennessee found "rudeness and hostility, number skipping, false assumptions and inconsistent acceptance of documents" and driver testing centers.⁷ One driver's license applicant from Puerto Rico was accused of purchasing documents and threatened with arrest. When the applicant stated that she was a U.S. citizen by birth, the clerk replied that Puerto Rico was not part of the United States.⁸ In some cases, clerks have confiscated important documents because they incorrectly decided that the documents were false.

FOR MORE INFORMATION, CONTACT

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⁷ Lola Atapo, "Testing the Testers: Study: Inconsistencies, Frustration Part of Process for Certificate Seekers," *The Knoxville News Sentinel*, March 1, 2005.

⁸ *League of Latin American Citizens (L.L.A.C.) et al. v. Bredeken et al.*, No. 3:04-613 (U.S.D.C. Middle Dist. Tenn. 2/24).



The Tennessee Driving Certificate—Background, Pitfalls, and Lessons Learned

I. Introduction

In May of 2004, Tennessee Governor Phil Bredesen signed the Tennessee driving certificate bill into law. This law created a totally new type of driving document, officially entitled a "certificate of driving." The law, which took effect on May 29, 2004, made driver's licenses available only to U.S. citizens and lawful permanent residents in Tennessee. All other applicants were eligible only for a "certificate for driving" that on its face bore the notation (in red lettering on a white background): "FOR DRIVING PURPOSES ONLY. NOT VALID FOR IDENTIFICATION."

The certificate legislation was created by the Administration of Tennessee Governor Phil Bredesen, who claimed the previous law – allowing all immigrants to obtain a driver's license regardless of immigration status – was a threat to homeland security. The Administration claimed the new certificate balanced the needs for homeland security with those of road safety.

The Tennessee Immigrant and Refugee Rights Coalition (TIRRC) – which originally formed around a successful 2001 campaign to remove the previous social security requirement for Tennessee driver's licenses – did not support the 2004 driving certificate proposal. The Coalition – and its statewide membership – was concerned that a two-tiered driving document would result in the discrimination of immigrants, as well as a wide variety of additional problems. TIRRC – and its supporters – tried to convince the Administration and the legislature not to change the 2001 law during the 2004 legislative session, but in the end was not able to stop what had become the political version of a runaway train. In fact, undocumented immigrants in Tennessee barely held on to access of any driving document at all, as many in the legislature supported and almost passed a competing bill that would have added a blanket legal presence requirement for any Tennessee driving document.

Since passage of the driving certificate law, over 16,000 Tennessee residents have obtained a driving certificate. Although these numbers may appear to indicate a smooth transition to the certificate, the reality is that implementation has been anything but smooth. What follows is a brief analysis of the decisions made by policy makers that led to many of these problems. This is followed by a discussion of how passage of the REAL ID Act has changed the debate, which is in turn followed by suggestions as to how other states could better design a two-tiered program by learning from the mistakes of Tennessee. It should be stressed that TIRRC is not endorsing a two-tiered approach, but simply attempting to share lessons learned from the unique Tennessee experience. It should also be noted that although the driving certificate legislation was implemented poorly in Tennessee – and that some problems could have been avoided – other problems, such as discrimination against certificate holders, are simply unavoidable given the nature of the document.

II. Bad Decisions (or oversights)

- *Certificate legislation did not address the issue of "citation in lieu of arrest."*
Result: Certificate holders in Tennessee fear the possibility of being arrested at traffic stops for not demonstrating "appropriate" ID.

Since the Tennessee driving certificate is "not valid for identification," local law enforcement officers can in theory arrest drivers for minor traffic violations instead of issuing them tickets. This is because when an individual is ticketed, he/she must show valid identification in order to receive a ticket instead – or "in lieu" – of arrest. Tennessee law enforcement agencies have expressed conflicting views about whether the certificate can be used as identification when an individual is cited, with some jurisdictions officially accepting the certificate as identification and others leaving the decision up to individual officers. The policy variation from one town to another, and even one officer to another, has created fear and confusion about whether the certificate will be accepted by law enforcement.

- *Certificate only lasts one year for undocumented*

Result: Many certificate holders in TN are forced to return to the DMV once a year, and lines at the driver's license testing centers increase.

Forcing undocumented immigrants to renew their certificates every year (instead of once every five years like a normal license) has made it less likely that all certificate holders will obtain/renew certificates, while at the same time causing longer lines at local driver's license stations.

- *All temporary immigrants excluded from obtaining a normal license*

Result: Understandable backlash from temporary immigrants in TN.

The authors of the driving certificate legislation over time came to realize that undocumented immigrants should not be the only group receiving the certificate. After all, if the certificate were just for the undocumented, then the document would essentially be proof of undocumented status. Therefore, the bill sponsors made the certificate mandatory for all temporary immigrants (i.e. visa holders or in legal jargon "non-immigrants") as well. In reality, it was not necessary to forbid *all* temporary immigrants from obtaining normal driver's licenses. This "broad-brush" policy has resulted in a backlash by many temporary immigrants, particularly H1-B visa holders. Indeed, some foreign business executives have decided not to move to Tennessee because they have been afraid of how they would be treated if forced to drive with a certificate.

- *No funding allocated to re-train workers*

Result: Many foreign-born applicants for normal driver's licenses are incorrectly given certificates.

Tennessee has been facing a revenue crisis for several years now, and as a result no significant funding was allocated in 2004 to re-train Tennessee driver's license testing center workers in the incredibly diverse and complex array of documentation used to prove different levels of immigration status. Virginia, on the other hand, instituted a driver's license legal presence requirement in 2003, and allocated over \$5 million dollars the first year alone to ensure proper training and support. As a result of the lack of training in Tennessee, many immigrants and refugees who should have been granted normal licenses have had their licenses taken away, and have walked away with certificates. Although the Coalition has been able to work with driver's license officials to obtain licenses for those individuals who have come to TIRRC, we are certain there are many others who have been wrongfully rejected and have simply given up.

- *No buy-in from insurance companies obtained*
Result: Many TN certificate holders are unable to obtain auto insurance.

No concerted effort was made by legislators or the Governor's office to get buy-in from auto insurers about the certificate. As a result many insurers were unprepared for the changes. Once companies finally did start making decisions on the certificate holders, some decided they would charge the exorbitant "high risk" rate, and others decided they would not cover certificate holders at all.

- *No anti-discrimination clauses or personnel*
Result: Discrimination against certificate holders not being reported or addressed.

Although it was clear that having a separate driving document for certain foreign-born Tennesseans could lead to discrimination, no clause was written into the legislation to address this possibility. As a result, there is not a reasonable mechanism for an immigrant to legally challenge any discrimination faced as a result of the certificate. In addition, no employees were hired or trained to take in civil rights complaints around the driving certificate.

- *No outreach campaign to the immigrant community*
Result: Many immigrants unclear as to how changes to the Tennessee driver's license law will affect them when their licenses expire, and unaware of their rights in regards to the certificate.

No campaign was undertaken by the state to educate the immigrant community about the new driving certificate law. As a result, TIRRC – with its limited resources – was forced to pick up the slack. TIRRC initiated an ambitious media campaign in the immigrant community explaining what the changes were and how they would affect the community. It also started a toll free information/complaint hotline the day the certificate law came into effect, which has resulted in countless calls. Despite these efforts, a lack of resources has kept TIRRC from reaching many in the immigrant community. Just a small investment in resources by the state government would have made an enormous difference.

- *Certificate not meant to be valid for ID in ANY circumstances*
Result: Certificate holders in Tennessee have trouble obtaining basic necessities because they do not possess a valid ID

Because the driving certificate states "not for identification purposes" on the front, it has been difficult for certificate holders to obtain basic necessities such as rental housing, medical care, education and banking. Utah – the only other state so far to adopt the two-tiered model – has a "driving privilege card" which cannot be used for government institutions, but *can* be used for private institutions.

- *No arrangements made with other states*
Result: Certificate holders afraid to drive outside of Tennessee

No agreements were made with other states to officially recognize the Tennessee certificate. As a result, if a certificate holder has to leave Tennessee for any reason, he/she does not know whether law enforcement in the state he/she is visiting will acknowledge the document.

in case of traffic stops. In essence, this decision is left up to the individual officer in that jurisdiction.

III. Positive Actions- Although there were obviously many mistakes/oversights in the development and implementation of the driving certificate, there were also some positive decisions which are recognized below:

- *Certificate not just for undocumented immigrants*
As is mentioned briefly above, this was an important decision that – although imperfect – prevented the certificate from becoming de-facto proof of undocumented status.
- *Certificate does not indicate immigration documentation used in application process*
A significant number of legislators had attempted to add an amendment that would have displayed the documentation used to obtain the certificate directly on the face of the card. This obviously would have deterred undocumented immigrants from obtaining certificates.
- *Certificate does not indicate when the document was issued, only when it expires*
If the certificate had indicated when the document was issued – in addition to the expiration date which is listed – an observer could be relatively certain whether or not the certificate holder was documented or undocumented. This is because for undocumented immigrants the certificate only lasts for a year, whereas for documented temporary immigrants, the certificate lasts for as long as the individual's visa lasts.
- *Law has been "grandfathered" in*
This means that a temporary or undocumented immigrant who currently has a license can keep his/her license until it expires. Nevertheless, upon renewal, the applicant will only be offered a certificate.
- *Refugees, asylees and public interest parolees given access to normal licenses*
During the rulemaking process it was determined that refugees, asylees and public interest parolees intended to be in the country permanently, and therefore qualified for a normal license.

IV. How passage of the REAL ID act changes the debate

The passage of the REAL ID Act by Congress in May of 2005 changed the framework for the debate on two tiered driving documents substantially. This is because federal law now requires states to institute legal presence requirements for driver's licenses within three years. This legal presence requirement does not apparently extend to "second tier", "non-federal ID" driving documents. This means that in Tennessee – for example – it will now be almost impossible to go back to the progressive 2001 driver's license law, but the Tennessee certificate will apparently not be appreciably affected.

Although this new reality makes alternative approaches such as the driving certificate seem more and more like the best option for undocumented immigrants who wish to drive legally, it is important not to rush into policy changes/campaigns. Since REAL ID doesn't need to be implemented for three years, state advocates should avoid moving too quickly and think through the best policy for immigrants. There are a number of other strategies being examined by immigrant advocates across the country, and all strategies should be investigated thoroughly before any firm decisions are made.

V. What states should do differently if they decide to opt for a two-tiered approach

- *Address the issue of "citation in lieu of arrest" in any legislation.*
- *Have certificate last for at least three years.*
- *Allow temporary immigrants with permission to work to obtain regular licenses.*
- *Allocate significant funding to re-train driver's license workers.*
- *Obtain buy-in from insurance companies beforehand.*
- *Legislate certificate anti-discrimination clauses and hire or train staff to accept civil rights complaints.*
- *Work with state authorities to initiate extensive outreach campaigns to the immigrant community.*
- *Make certificate valid for ID for non-governmental (i.e. private) entities. Or even better, only make the certificate invalid for "federal identification purposes" such as boarding a plane.*
- *Work to get the certificate recognized by other states beforehand.*

Prepared by David Lubell, State Coordinator of the Tennessee Immigrant and Refugee Rights Coalition. For questions, you can contact David at david@tnimmigrant.org or at 615-846-6672.

**PUBLIC SAFETY DRIVING PRIVILEGE AND
IDENTIFICATION CARD AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

This bill modifies the Public Safety Code by amending driver license and identification card provisions.

Highlighted Provisions:

This bill:

- ▶ requires the Driver License Division to make rules for acceptable documentation of an applicant's identity, Utah residency, Utah residence address, proof of legal presence, and proof of citizenship;
- ▶ prohibits the Driver License Division from issuing a driver license, driving privilege card, or identification card to a person who is not a Utah resident;
- ▶ defines driving privilege card as the evidence of the privilege granted to drive a motor vehicle;
- ▶ requires the Driver License Division to:
 - only issue a driving privilege card to a person who did not use a Social Security number to obtain a driving privilege; and
 - distinguish a driving privilege card from a license certificate by:
 - use a format, color, font, or other means to clearly distinguish the driving privilege card from other driver licenses; and
 - clearly display on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION";

- ▶ prohibits a governmental entity from accepting a driving privilege card as proof of personal identification:
 - ▶ repeals, as a substitute for a Social Security number, the use of a temporary identification number (IT'N) issued by the Internal Revenue Service for purposes of obtaining an identification card issued by the Driver License Division:
 - ▶ provides that a driver license certificate expires on the person's next birthday after July 1, 2005 if:
 - the driver license was obtained without using a Social Security number; and
 - the driver license certificate or driving privilege card is not distinguished in certain ways by the division;
 - ▶ provides that a driving privilege card expires on the birth date of the applicant each year;
 - ▶ provides that an identification card that was obtained without using a Social Security number expires on July 1, 2005; and
 - ▶ make technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

- 53-3-104, as last amended by Chapter 85, Laws of Utah 2001
- 53-3-204, as last amended by Chapter 30, Laws of Utah 2003
- 53-3-205, as last amended by Chapter 222, Laws of Utah 2004
- 53-3-207, as last amended by Chapter 144, Laws of Utah 2004
- 53-3-804, as last amended by Chapter 50, Laws of Utah 2003
- 53-3-807, as last amended by Chapter 30, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-3-104** is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship, and other proof or documentation required under this chapter;

~~(b)~~ (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit; and

~~(c)~~ (d) for exemptions from licensing requirements as authorized in this chapter;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices

containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing his convictions and the traffic accidents in which he has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6-48.5;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license; and

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303.

Section 2. Section 53-3-204 is amended to read:

53-3-204. Persons who may not be licensed.

(1) (a) The division may not license a person who:

(i) is younger than 16 years of age;

(ii) has not completed a course in driver training approved by the commissioner; or

(iii) if the person is a minor, has not completed the driving requirement under Section

53-3-211[-]; or

(iv) is not a resident of the state of Utah.

(b) [~~Subsection~~] Subsections (1)(a)(i), (ii), and (iii) [~~does~~] do not apply to a person.

- (i) who has been licensed before July 1, 1967;
 - (ii) who is 16 years of age or older making application for a license who has been licensed in another state or country; or
 - (iii) who is applying for a permit under Section 53-3-210 or 53A-13-208.
- (2) The division may not issue a license certificate to a person:
- (a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;
 - (b) whose privilege has been revoked, except as provided in Section 53-3-225;
 - (c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;
 - (d) who is required by this chapter to take an examination unless the person successfully passes the examination; or
 - (e) whose driving privileges have been denied or suspended under:
 - (i) Section 78-3a-506 by an order of the juvenile court; or
 - (ii) Section 53-3-231.
- (3) The division may grant a class D or M license to a person whose commercial license is disqualified under Part 4 of this chapter if the person is not otherwise sanctioned under this chapter.

Section 3. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

- (1) An application for any original license, provisional license, or endorsement shall be:
 - (a) made upon a form furnished by the division; and
 - (b) accompanied by a nonrefundable fee set under Section 53-3-105.
- (2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class D license within six months of the date of the application:

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class M license within six months of the date of the application:

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class M license and license certificate after all tests are passed.

(4) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit if needed after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(5) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(6) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (5) or (6), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(8) (a) [★] Except as provided under Subsection (8)(f), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) [★] Except as provided under Subsection (8)(f), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) [★] Except as provided under Subsection (8)(f), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) A license and any endorsement to the license held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person has been discharged or has left the service, unless the license is suspended, disqualified, denied, or has been cancelled or revoked by the division, or the licensee updates the information or photograph on the license certificate.

(f) (i) An original license or a renewal or a duplicate to an original license expires on the next birth date of the applicant or licensee beginning on July 1, 2005 if:

(A) the license was obtained without using a Social Security number as required under Subsection (9); and

(B) the license certificate or driving privilege card is not clearly distinguished as required under Subsection 53-3-207(6).

(ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall have a Utah residence address and each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(E) Social Security number or temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number; and

(F) Utah residence address of the applicant;

(ii) provide a description of the applicant;

(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

(vi) provide all other information the division requires; and

(vii) sign the application which signature may include an electronic signature as defined in Section 6-4-102.

(b) The division shall maintain on its computerized records an applicant's:

(i) Social Security number; or

(ii) temporary identification number (ITIN).

(c) An applicant may not be denied a license for refusing to provide race information

required under Subsection (9)(a)(i)(D).

(10) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(11) When an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(13) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105

(14) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(15) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and

Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

Section 4. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "driving privilege" means the privilege granted under this chapter to drive a motor vehicle;

(b) "driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle;

(c) "governmental entity" means the state and its political subdivisions as defined in this Subsection (1);

(d) "political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation; and

(e) "state" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other

instrumentality of the state.

~~(1)~~ (2) (a) The division shall issue to every person privileged to drive a motor vehicle, a license certificate or a driving privilege card indicating the type or class of motor vehicle the [licensee] person may drive.

(b) A person may not drive a class of motor vehicle unless [licensed] granted the privilege in that class.

~~(2)~~ (3) (a) Every license certificate or driving privilege card shall bear:

- (i) the distinguishing number assigned to the [licensee] person by the division;
- (ii) the name, birth date, and Utah residence address of the [licensee] person;
- (iii) a brief description of the [licensee] person for the purpose of identification;
- (iv) any restrictions imposed on the license under Section 53-3-208;
- (v) a photograph of the [licensee] person;

(vi) a photograph or other facsimile of the [licensee's] person's signature; and

(vii) an indication whether the [licensee] person intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, unless the [license] driving privilege is extended under Subsection 53-3-214(3).

(b) A new license certificate issued by the division may not bear the [licensee's] person's Social Security number.

(c) (i) The license certificate or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the license certificate or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited license certificate or driving privilege card under Subsection 53-3-220(4) and may authorize the issuance of a renewed or duplicate license certificate or driving privilege card without a picture if the applicant is not then living in the state.

~~(3)~~ (4) (a) (i) The division upon determining after an examination that an applicant is mentally and physically qualified to be granted a [license] driving privilege may issue to an

applicant a receipt for the fee.

(ii) The receipt serves as a temporary license certificate or temporary driving privilege card allowing ~~him~~ the person to drive a motor vehicle while the division is completing its investigation to determine whether ~~he~~ the person is entitled to be ~~licensed~~ granted a driving privilege.

(b) The receipt shall be in ~~his~~ the person's immediate possession while driving a motor vehicle, and it is invalid when the ~~applicant's~~ person's license certificate or driving privilege card has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the receipt a date after which it is not valid as a license certificate or driving privilege card.

~~(4)~~ (5) (a) The division shall distinguish learner permits, temporary permits, ~~and~~ license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other license certificates or driving privilege cards.

(b) The division shall distinguish a license certificate or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other license certificates or driving privilege cards and by plainly printing the date the license certificate or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or product under Section 32A-12-203; and

(ii) younger than 19 years of age, by plainly printing the date the license certificate or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) (a) The division shall only issue a driving privilege card to a person whose privilege was obtained without using a Social Security number as required under Subsection 53-3-205(9).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially

similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

~~(7)~~ (7) The provisions of Subsection ~~(4)~~ (5)(b) do not apply to a learner permit, temporary permit, or any other temporary permit or receipt issued by the division.

~~(5)~~ (8) The division shall issue temporary license certificates or temporary driving privilege cards of the same nature, except as to duration, as the license certificates or driving privilege cards that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

(9) A governmental entity may not accept a driving privilege card as proof of personal identification.

~~(6)~~ (10) A person who violates Subsection ~~(4)~~ (2)(b) is guilty of a class C misdemeanor.

(11) Except as provided under this section, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license issued under this chapter; and

(b) driving privilege card in the same way as a license certificate issued under this chapter.

Section 5. Section ~~53-3-804~~ is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information.

(1) To apply for an identification card, the applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) ~~(4)~~ Social Security number; ~~(3)~~

~~[(iii) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number.]~~

- (d) place of birth;
- (e) height and weight;
- (f) color of eyes and hair;
- (g) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;
- (h) signature;
- (i) photograph; and
- (j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) An applicant may not be denied an identification card for refusing to provide race information required under Subsection (2)(g).

Section 6. Section **53-3-807** is amended to read:

53-3-807. Expiration -- Address and name change -- Extension for disabled.

(1) The identification card expires on the birth date of the applicant in the tenth year following the issuance of the identification card, except as provided under Subsection (6).

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within ten days notify the division in a manner specified by the division of his new address.

(3) If a person has applied for and received an identification card and subsequently changes his name under Title 42, Chapter 1, Change of Name, he:

- (a) shall surrender the card to the division; and
- (b) may apply for a new card in his new name by:
 - (i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) A person older than 21 years of age with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for ten years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability;

and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(5) (a) An identification card may only be extended once.

(b) After an extension an application for an identification card must be applied for in person at the division's offices.

(6) An identification card issued to a person 65 years of age or older does not expire, but continues in effect until the death of that person.

(7) Notwithstanding the provisions of this section, an identification card that was obtained without using a Social Security number as required under Subsection 53-3-804(2) expires on July 1, 2005.

Section 7 Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VI, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**AMENDMENTS TO DRIVER LICENSE AND
IDENTIFICATION CARDS**

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill modifies the Public Safety Code by amending driver license and identification card provisions.

Highlighted Provisions:

This bill:

- ▶ requires the Driver License Division to make rules for acceptable documentation of an applicant's identity, Utah residence address, proof of legal presence, and proof of citizenship of a country other than the United States;
- ▶ provides that for purposes of obtaining a driver license or identification card issued by the Driver License Division, as a substitute for a Social Security number or a temporary identification number (ITIN), an applicant may provide proof that the applicant:
 - is a citizen of another country;
 - does not qualify for a Social Security number; and
 - is legally present in the United States, as authorized under federal law;
- ▶ provides that an applicant must show documentation of a Utah residence address in a form acceptable under rules made by the division in order to obtain a driver license or identification card;
- ▶ provides that an original license or a renewal to an original license or an identification card obtained without using a Social Security number or ITIN expires on the date of the expiration of the applicant's foreign visa, permit, or other

document granting legal presence in the United States or on the normal expiration date whichever is sooner;

- changes the period an identification card is valid and reduces the time that it may be extended from ten to five years;
- prohibits the Driver License Division from granting an extension to a driver license or identification card for an applicant that did not provide a Social Security number or ITIN to obtain a driver license or identification card;
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-3-104, as last amended by Chapter 85, Laws of Utah 2001

53-3-205, as last amended by Chapter 222, Laws of Utah 2004

53-3-214, as renumbered and amended by Chapter 234, Laws of Utah 1993

53-3-804, as last amended by Chapter 30, Laws of Utah 2003

53-3-807, as last amended by Chapter 30, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-3-104** is amended to read:

53-3-104. Division duties.

The division shall:

- (1) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
make rules:
 - (a) for examining applicants for a license, as necessary for the safety and welfare of the

traveling public:

(b) for acceptable documentation of an applicant's identity, Utah residence address, proof of legal presence, proof of citizenship of a country other than the United States, and other proof or documentation required under this chapter;

~~(b)~~ (c) regarding the restrictions to be imposed on a person driving a motor vehicle with a temporary learner permit; and

~~(c)~~ (d) for exemptions from licensing requirements as authorized in this chapter:

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by it and shall maintain indices

containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by it under state law;

(7) maintain a record of each licensee showing his convictions and the traffic accidents in which he has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any person licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6-48.5;

(11) in accordance with Section 53A-13-208, establish:

(a) procedures and standards to certify teachers of driver education classes to administer

knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license; and

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303.

Section 2. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed after the knowledge test is passed; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class M

license within six months of the date of the application:

- (b) a learner permit if needed after the knowledge test is passed; and
 - (c) an original class M license and license certificate after all tests are passed.
- (4) An application and fee for a motorcycle or taxicab endorsement entitle the applicant

to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months of the date of the application;

(b) a motorcycle learner permit if needed after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(5) An application and fees for a commercial class A, B, or C license entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application;

(b) a commercial driver instruction permit if needed after the knowledge test is passed; and

(c) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(6) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months of the date of the application; and

(b) a CDL endorsement when all tests are passed.

(7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (5) or (6), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(8) (a) ~~Am~~ Except as provided under Subsection (8)(f), an original license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(b) [★] Except as provided under Subsection (8)(f), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) [★] Except as provided under Subsection (8)(f), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) A license and any endorsement to the license held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person has been discharged or has left the service, unless the license is suspended, disqualified, denied, or has been cancelled or revoked by the division, or the licensee updates the information or photograph on the license certificate.

(f) An original license or a renewal to an original license obtained using proof under Subsection (9)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa, permit, or other document granting legal presence in the United States or on the date provided under this Subsection (8), whichever is sooner.

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall have a Utah residence address and each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau:

(E) (I) Social Security number [σ];

(II) temporary identification number (ITIN) issued by the Internal Revenue Service for a

person who does not qualify for a Social Security number; or

(III) (Aa) proof that the applicant is a citizen of a country other than the United States;

(Bb) proof that the applicant does not qualify for Social Security number; and

(Cc) proof of legal presence in the United States, as authorized under federal law; and

(F) Utah residence address [of the applicant] as documented by a form acceptable under rules made by the division under Section 53-3-104:

(ii) provide a description of the applicant;

(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(v) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act, in compliance with Subsection (16);

(vi) provide all other information the division requires; and

(vii) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) The division shall maintain on its computerized records an applicant's:

(i) Social Security number; ~~or~~

(ii) temporary identification number (TTIN); ~~or~~

(iii) other number assigned by the division if Subsection (9)(a)(i)(E)(III) applies.

(c) An applicant may not be denied a license for refusing to provide race information required under Subsection (9)(a)(i)(D).

(10) The division shall require proof of every applicant's name, birthdate, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(11) When an applicant receives a license in another class, all previous license certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(13) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(14) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(15) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-2, the names and addresses of all persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(17) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v), for direct or indirect:

- (a) loss;
- (b) detriment; or
- (c) injury.

Section 3. Section **53-3-214** is amended to read:

53-3-214. Renewal -- Fees required -- Extension without examination.

(1) (a) The holder of a valid license may renew his license and any endorsement to the license by applying:

- (i) at any time within six months before the license expires; or
- (ii) more than six months prior to the expiration date if the applicant furnishes proof that he will be absent from the state during the six-month period prior to the expiration of the license.

(b) The application for a renewal of, extension of, or any endorsement to a license shall be accompanied by a fee under Section 53-3-105.

(2) (a) Except as provided under Subsections (2)(b) and (3), upon application for renewal of a license, provisional license, and any endorsement to a license, the division shall reexamine each applicant as if for an original license and endorsement to the license, if applicable.

(b) The division may waive any or all portions of the test designed to demonstrate the applicant's ability to exercise ordinary and reasonable control driving a motor vehicle.

(3) (a) Except as provided under Subsection (3)(b), the division shall extend a license, any endorsement to the license, a provisional license, and any endorsement to a provisional license for five years without examination for licensees whose driving records for the five years immediately preceding the determination of eligibility for extension show:

- (i) no suspensions;
- (ii) no revocations;
- (iii) no conviction for reckless driving under Section 41-6-45; and
- (iv) no more than four reportable violations in the preceding five years.

(b) (i) After the expiration of a license, a new license certificate and any endorsement to a license certificate may not be issued until the person has again passed the tests under Section 53-3-206 and paid the required fee.

(ii) A person 65 years of age or older shall take and pass the eye examination specified in Section 53-3-206.

(iii) An extension may not be granted to any person;

(A) who is identified by the division as having a medical impairment that may represent a hazard to public safety[?];

~~(iv) (B) [An extension may not be granted to any person]~~ holding a CDL issued under Part 4 of this chapter[?]; or

(C) whose original license was obtained using proof under Subsection 53-3-205(9)(a)(i)(E)(III).

(c) The division shall allow extensions:

(i) by mail at the appropriate extension fee rate under Section 53-3-105;

(ii) only if the applicant qualifies under this section; and

(iii) for only one extension.

Section 4. Section **53-3-804** is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information.

(1) To apply for an identification card, the applicant shall have a Utah residence address and appear in person at any license examining station.

(2) The applicant shall provide the following information to the division:

(a) (i) true and full legal name; and

(ii) Utah residence address as documented by a form acceptable under rules made by the division under Section 53-3-104;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) Social Security number; ~~(or)~~

(ii) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number; or

(iii) (A) proof that the applicant is a citizen of a country other than the United States;

(B) proof that the applicant does not qualify for a Social Security number; and

(C) proof of legal presence in the United States, as authorized under federal law;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(h) signature;

(i) photograph; and

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Uniform Anatomical Gift Act.

(3) The requirements of Section 53-3-234 apply to this section for each person, age 16 and older, applying for an identification card. Refusal to consent to the release of information shall result in the denial of the identification card.

(4) An applicant may not be denied an identification card for refusing to provide race information required under Subsection (2)(g).

Section 5. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension for disabled.

(1) ~~[The]~~ Except as provided under Subsections (6) and (7), the identification card expires on the birth date of the applicant in the [tenth] fifth year following the issuance of the identification card]; ~~except as provided under Subsection (6)].~~

(2) If a person has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the person shall within ten days notify the division in a manner specified by the division of his new address.

(3) If a person has applied for and received an identification card and subsequently

changes his name under Title 42, Chapter 1, Change of Name, he:

- (a) shall surrender the card to the division; and
- (b) may apply for a new card in his new name by:
 - (i) furnishing proper documentation to the division as provided in Section 53-3-804; and
 - (ii) paying the fee required under Section 53-3-105.

(4) A person older than 21 years of age with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for ~~ten~~ five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years of age or older with a disability;

and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(5) (a) ~~[An]~~ Except as provided under Subsection (5)(c), an identification card may only be extended once.

(b) After an extension an application for an identification card must be applied for in person at the division's offices.

(c) An identification card obtained using proof under Subsection 53-3-804(2)(c)(iii) may not be extended.

(6) ~~[An]~~ Except as provided in Subsection (7), an identification card issued to a person 65 years of age or older does not expire, but continues in effect until the death of that person.

(7) An identification card obtained using proof under Subsection 53-3-804(2)(c)(iii) expires on the date of the expiration of the applicant's foreign visa, permit, or other document granting legal presence in the United States or the date provided under Subsection (1), which ever is sooner.

Section 6. **Effective date.**

This bill takes effect on July 1, 2005.

Section 7. **Coordinating H.B. 223 with S.B. 227.**

If this H.B. 223 and S.B. 227, Public Safety Driving Privilege and Identification Card Amendments, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) the amendments to Sections 53-3-804 and 53-3-807 in S.B. 227 supersede the amendments to Sections 53-3-804 and 53-3-807 in this bill; and

(2) in Section 53-3-205:

(a) renumber Subsection (8)(f) in S.B. 227 to (8)(g) and change the references from "Subsection (8)(f)" to "Subsections (8)(f) and (g)"; and

(b) after Subsection (8)(g)(ii) insert the following:

"(iii) The expiration dates provided under Subsections (8)(g)(i) and (ii) do not apply to an original license or driving privilege card or to the renewal of an original license or driving privilege card with an expiration date provided under Subsection (8)(f)."

Department of Community and Culture
Utah State Office of Ethnic Affairs



In an effort to inform and educate people living in Utah regarding the new Driver's License Law (Senate Bill 227), the Office of Ethnic Affairs in the Department of Community and Culture and the Department of Public Safety have created the following fact sheet to help explain the impact of this law:

Senate Bill 227 -Public Safety Driving and Identification Card Amendments-

Questions and Answers

Q: What does this law do?

A: This law revokes the use of an Individual Tax Identification Number (ITIN) issued by the Internal Revenue Service to obtain a Utah Driver's License or a State Identification Card. Those individuals using an ITIN will be issued a Driving Privilege Card rather than a "Driver's License".

Q: When does this law begin?

A: This law took effect on March 8, 2005. Driver's Licenses issued with an ITIN will expire on the person's next birthday after July 1, 2005. This means that they will need to obtain a Driving Privilege Card to drive legally in the state.

Q: Are these Driving Privilege Cards only for Undocumented Individuals?

A: No. Driving Privilege Cards are not only for those who are undocumented. Anyone who does not have a Social Security number is eligible to obtain this card to drive. This will also include individuals who are legally present but do not qualify for a Social Security number, such as foreign students, foreign military personnel, foreign Olympic athletes, etc.

Q: Do you have to get a Driving Privilege Card if you have a valid Social Security number in your name?

A: No. If you obtained your Utah Driver's License using a valid Social Security number and not an ITIN, you do not have to obtain the Driving Privilege Card.

Q: Does the Driving Privilege Card allow you to get car insurance?

A: Yes. The Driving Privilege Card not only allows you to get car insurance but requires it. Utah law requires anyone operating a vehicle to have car insurance. It is against the law to drive without car insurance. If you currently do not have car insurance, we encourage you to obtain it.

Q: Can the Driving Privilege Card be used for Identification purposes?

A: Yes. The Driving Privilege Card may be used to identify yourself **OUTSIDE** any governmental entity. This means that financial institutions and other private institutions may accept this Driving Privilege Card as identification. You may be able to use the Driving Privilege Card to cash your checks, open bank accounts, or make purchases at stores. Governmental entity means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district created by an interlocal agreement and any state office, state department, state agency, authority, commission, board, institution, state hospital, state college or university, or children's justice center.

Q: Will I have to present proof of work authorization to my employer again?

A: Maybe. The I-9 form, the form that your employer is required to fill out before you begin employment requires that you present proof of authorization to work in this country. Normally employers request proof of work authorization at hire. However they have the discretion to request these documents again.

Q: Is Utah the only state that has a Driving Privilege Card?

A: No. The state of Tennessee has a very similar card and there are other states that allow individuals to use an ITIN to get a Driver's License. It is important to note that in the case of undocumented individuals, most states do not allow driving privileges.

Q: Will my likelihood of being deported increase as a result of this law passing?

A: Not necessarily. Although there is a lot of misinformation, this new law does not provide law enforcement officers any new or additional authority regarding immigration. Currently if you are stopped by law enforcement they can request your Driver's License and determine if you obtained it with an ITIN.

Q: Will Immigration Customs Enforcement want to deport more individuals due to this law?

A: Immigration authorities have stated that their priorities are terrorist and criminal aliens. As long as you have not committed a felony or there is no warrant for your arrest, the likelihood of you being deported is minimal. However, anyone who is undocumented runs the risk of being deported.

Q: Do police officers have the right to ask for my legal status?

A: Yes. It is not the practice of law enforcement officers to ask nationality or immigration status. However, under certain circumstances law enforcement officers can inquire about immigration status. You should always cooperate with law enforcement. An officer cannot stop you based solely on your race, ethnicity or national origin. If you feel this has occurred, please call the Office of Ethnic Affairs toll-free at 1-877-488-3233, ext. 672.

Q: Should I take the risk and simply drive without a Driving Privilege Card?

A: No. We strongly recommend that you obtain the Driving Privilege Card to be properly trained and insured in the state of Utah. Without a Driver's License or a Driving Privilege Card, you will not be able to obtain car insurance. If stopped by law enforcement, you may be ticketed for driving without a license or driving without insurance. As a result, court fines may be assessed. If you fail to appear in court, a warrant may be issued for your arrest. If you are arrested and taken into custody, you run the risk of an action through the Bureau of Immigration Customs Enforcement. We encourage everyone, regardless of legal status, to follow the law.



STATE OF UTAH

Office of the Legislative Auditor General

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JOHN M. SCHAFF, CIA
AUDITOR GENERAL

January 25, 2006
ILR 2006-A

Senator Curtis S. Bramble
Utah State Senate
W115 House Building
Salt Lake City, UT 84114

Subject: Results of Sample Matching Driving Privilege Cards to Vehicle Insurance

Senator Bramble:

At your request, we have gathered data regarding driving privilege (DP) cards issued to individuals in Utah. We were asked to determine if those who have DP cards were also obtaining insurance for their vehicles. Our results show a significant correlation:

- A sample of 2,500 DP cards identified 1,876 which were electronically matched to insurance policies. This analysis shows that 75 percent of DP cardholders have insurance.
- By using a control group of 2,500 driver's licenses, we found that 81 percent of the driver's licenses could be electronically matched to insurance policies.

With the cooperation of the Drivers License Division and Insure-Rite (an insurance verification company designed to identify uninsured motorists for the state), we gathered and analyzed the DP card data. Under *Utah Code 53-3-207(1)(b)*, a driving privilege card "means the evidence of the privilege granted and issued . . . to drive a motor vehicle." There are nearly 25,000 DP cards currently issued in Utah. We sampled 2,500, or 10 percent, in order to determine how many of the operators with DP cards had insurance for their vehicles. Of the 2,500 in the sample, 1,876 or 75.04 percent were matched with insurance.

Because the match between DP cards and insurance only showed a code representing an insurance company, we verified our sample findings by following several DP card cases back to their individual insurance policies. This exercise in finding source data gave us reasonable assurance that the 1,876 persons have active insurance policies.

Our control group of 2,500 sampled driver's licenses showed an 81.32 percent match to proof of insurance. Therefore, it appears that DP card holders are within approximately 6 percent of the control group population. Figure 1 summarizes our sample findings.

Figure 1. Driving Privilege Card Sample Results. We selected a 2,500 sampling of DP cardholders and compared them with 2,500 driver's license holders for frequency of insurance.¹

Sample Group	Quantity	Percent
Driving Privilege Card		
Insured	1,876	75.04%
Not Found	624	24.96
Total	2,500	100%
Driver's Licenses		
Insured	2,033	81.32%
Not Found	467	18.68
Total	2,500	100%

¹ Data is statistically at the 95 percent confidence level for both categories with a +/- 2 percent standard error.

The "Not Found" categories in Figure 1 represent persons in both the DP card and driver's license sampling groups who were not electronically matched to insurance. Further manual testing could likely provide more matches, but time constraints prevent us from continuing our research at this time. Regarding the driver's license sample group, officials at Insure-Rite state that, on average, the non-insured rate is 6 percent. Therefore, the potential for further matches exists in both the DP card and driver's license sample groups. Overall, the initial sample match shows that those who operate vehicles using DP cards are only 6 percent less likely to have insurance than the driver's license population of 1.8 million.

We hope this report addresses the question asked about driving privilege cards and the rate at which these individuals are obtaining insurance. If you have any further questions, please call Darin Underwood at (801) 538-1033.

Sincerely,

John M. Schaff, CIA
Auditor General

Deseret Morning News, Friday, March 11, 2005

Utah issuing driving cards

Number of applicants declines after SB227 goes into effect

By Joseph M. Dougherty

Deseret Morning News

A week ago, people without Social Security numbers rushed to the state Driver License Division in West Valley City to get their drivers' licenses.

They used an ITIN, or temporary tax number, as their identification number, and the division processed about 80 applications a day, said Doug Hunt, the supervisor of the largest Driver License Division in Utah.

Hunt told the Deseret Morning News that his office in West Valley City normally processes 50 to 60 applications a day for people who submit an ITIN. In the few weeks before SB227 was passed, that number jumped to 80.

Then SB227, which provides a driving privilege card to undocumented immigrants who can prove Utah residency and have an ITIN, was signed into law Tuesday.

Wednesday, his office processed eight driving privilege cards. Thursday: nine.

Doug McCleve, spokesman for the Utah Department of Public Safety, said he hopes the sharp decline isn't from fear of racial profiling.

State troopers won't automatically haul drivers using the driving privilege to jail, he said.

"First of all, it's against the Constitution to profile someone based on race," he said. "That's not what we're about."

McCleve said if someone feels victimized by a trooper, he can contact the department at 801-965-4437. He promised the department would investigate each case and take immediate action.

McCleve said it's not a trooper's job to focus on immigration, which is a federal issue. A trooper's job is safety on the state's highways.

"This is a driving privilege," he said.

People who apply for a driving privilege card will receive a temporary permit stamped in red ink with the words: "For driving only. Not for identification."

The permit is nearly identical to any normal temporary license for new drivers.



Alex Harris, 15, has his photo taken for his learner's permit at the Driver License Division, West Valley City

Tom Smart, Deseret Morning News

The driving privilege card, which haven't been designed yet, will eventually look quite different from a driver's license, McCleve said. But it will be hard plastic. The card costs the same as a driver's license and expires every year on the applicant's birthday.

Thursday afternoon, Gov. Jon Huntsman Jr. also signed into law another bill dealing with driving, but this one affects people who are legally residing in the United States.

HB223, which will allow those people to have a driver's license or identification card as long as they can prove Utah residency, takes effect July 1.

Anyone with a foreign visa, permit or other document granting legal presence in the United States may have a valid driver's license or identification card as long as all of those documents are valid.

These people were previously unable to get a Utah driver's license because a Social Security number or ITIN is required. Rep. Curt Oda, D-Clearfield, has called it a Hill-Air-Force-Base-friendly bill, because allied troops training at Hill would benefit. So would those with student visas and foreign athletes training for the Olympics.

For longtime legal visitors the drivers' licenses and identification cards can only be extended for five years instead of 10, and the Driver License Division cannot grant an extension to an applicant who has neither Social Security number nor ITIN.

HB223 is sometimes referred to as the sister bill to the much-publicized SB227.

The president of Save America, Barry Hatch, said the state shouldn't cater to people who come to the United States illegally, and allowing driving privilege cards is a step too far.

"What more do they want?" he asked. "To vote?"

He said they should be taught the rule of law by being deported, especially if they have criminal records or are on welfare. Any illegal immigrants who are hard-working should go back home and apply to come to the United States through proper channels, he said.

He predicted that within 18 months, there would be 500,000 immigrants in Utah.



A temporary driving privilege card, with personal ID marked out

Tom Smart, Deseret Morning News

E-mail: jdougherty@desnews.com

069862300

HOUSE BILL NO. 1586

Offered January 20, 2006

1
2
3 A BILL to amend the Code of Virginia by adding a section numbered 46.2-344.1, relating to the
4 issuance of certificates for driving

5
6 Patrons—Ebbin and Welch

7 Referred to Committee on Transportation

8
9 Be it enacted by the General Assembly of Virginia:

- 10 1. That the Code of Virginia is amended by adding a section numbered 46.2-344.1 as follows:
- 11 § 46.2-344.1. Operation of motor vehicles by persons unable to establish legal presence: Certificate
- 12 for Driving.
- 13 A. The Department shall issue a "certificate for driving" or "learner's certificate for driving" to any
- 14 person unable to present to the Department with the application for such, valid documentary evidence of
- 15 lawful presence pursuant to § 46.2-328.1; but who otherwise meets all requirements for eligibility to
- 16 obtain a Virginia driver's license or learner's permit.
- 17 B. A certificate and learner's certificate shall only certify the person's ability to operate a motor
- 18 vehicle and shall not be used by federal agencies for identification purposes.
- 19 C. Such certificate and learner's certificate shall be clearly distinguishable from a driver's license
- 20 and learner's permit issued pursuant to Articles 4 and 5 of this Chapter, through the use of a unique
- 21 design or color indicator, as determined by the Commissioner, to alert federal agencies and other law
- 22 enforcement personnel that it is indicative only of driving privilege. In addition, such certificate and
- 23 learner's certificate shall display on its face a phrase indicating that these documents may not be
- 24 accepted by any federal agency for federal identification.
- 25 D. Such certificate and learner's permit shall be valid for one year from the date of issuance and
- 26 may be renewed for additional one-year periods.
- 27 E. The fee for such certificate and learner's certificate shall be \$25 for each original certificate and
- 28 learner's certificate. The fee for each renewal of a certificate and learner's certificate shall be \$20.
- 29 F. Unless otherwise set forth in this section, a certificate and learner's certificate shall be subject to
- 30 all rules, regulations, endorsements, restrictions, penalties, suspensions, revocations, cancellations and
- 31 related fees to which driver's licenses and learner's permits issued pursuant to Articles 4 and 5 of this
- 32 Chapter, are subject.

INTRODUCED

HB1586

"Certificate for driving" bill would ease ID rules

By BILL BURKE, The Virginian-Pilot

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Virginia would become the third state to grant driving privileges to people unable to prove they are in the United States legally under a bill co-championed by Virginia Beach Del. John J. Welch III.

HB 1586 would establish a "certificate for driving" that would permit holders to drive in Virginia after receiving the same behind-the-wheel training required for those who hold regular licenses. The certificates would be good only for driving and could not be used for identification purposes, such as to board airplanes or cash checks.

The chief patron, Del. Adam P. Ebbin, D-Alexandria, said he introduced the bill because of concerns about growing numbers of people who drive without licenses. He said that from 2002 to 2004, the number of people convicted of driving without an operator's permit in Virginia jumped 19 percent, from 41,411 to 49,346.

"This would help ensure that the drivers on Virginia's roads are qualified," Ebbin said.

Welch, a Republican who is the bill's chief co-sponsor, said that in an effort to toughen requirements for obtaining driver's licenses after Sept. 11, 2001, "we may have overtightened a little bit." Seven of the 19 hijackers used Virginia driver's licenses to board the planes before the attacks in New York and Washington.

Welch said he has received complaints from some constituents that they have had difficulty obtaining licenses because of newer, more onerous identification requirements by the Virginia Department of Motor Vehicles. Virginia law requires applicants for a driver's license to prove they are in the United States legally — by producing a document such as a birth certificate, Social Security card or visa.

"We're talking about people who don't have a birth certificate or may be homeless," he said. "This has placed a burden on some valid citizens."

Undocumented immigrants would be among those affected by the law, Welch said.

Welch said a driving-certificate program could "help these people out while also ensuring post-9/11 safety." The certificates would be designed in a way to clearly distinguish them from driver's licenses.

The only states that now issue such certificates are Tennessee, which began its program in 2004, and Utah, which started issuing "driving privilege cards" last year. During the first year of Tennessee's program, 26,634 certificates were distributed, many to undocumented workers unable to obtain standard operator's permits.

The bill does not specify what documents an applicant would be required to submit to obtain a certificate. Ebbin said that decision would be made administratively by the DMV. The Virginia bill is modeled generally after the Tennessee law, which requires an applicant to provide two forms of proof of identity and proof of state residency.

The Tennessee law has provoked some controversy, including the filing of a lawsuit by one pro-immigration organization and concerns by another that the two-tiered system could lead to discrimination.

Virginia's certificates would be good for one year and renewable in one-year increments. They would cost \$25. The bill also provides for learner's certificates, costing \$20.

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Driver's License Curtailed as Identification

Critics Call 'Real ID' Issue Forcefully Anti-Immigrant

By T.R. Reid and Darryl Fears
Washington Post Staff Writers
Sunday, April 17, 2005, Page A03

WEST VALLEY, Utah -- In the two years since she got her Utah driver's license, Guadalupe Camarillo notes with obvious pride, she has had no accidents, no moving violations and no parking tickets. "I drive so careful, I've never even been stopped," she beams.

But Camarillo is about to lose her license. The cleaning woman from Michoacan, Mexico, is among tens of thousands of illegal immigrants whose licenses will be voided under a state law that took effect March 8.

A precursor to the "Real ID Act" pending in the U.S. Senate, the Utah law gives undocumented workers such as Camarillo "driving privilege cards" instead of licenses. The document authorizes driving but declares in bold red letters that it cannot be used as legal identification.

Many Hispanics, including U.S. citizens, are outraged by the change. "You work hard, you pay the same taxes as anybody else, but the state legislature brands you as second-rate," noted veteran activist John Florez of Salt Lake City. "I'm sorry to say it, but the real point here is racism."

Responds state Sen. Curtis S. Bramble (R), who sponsored the new state law: "Tell me how granting a privilege to somebody who is here illegally can be called punitive. We are letting people drive. They can get [auto] insurance. But they can't use this card to buy firearms or serve on a jury or vote. Those are rights for citizens."

The restrictions that undocumented immigrants face in Utah could be felt nationwide if Congress passes the Real ID Act. The legislation cleared the House in February and faces debate on the Senate floor that may begin this week.

The legislation would compel states to painstakingly verify documents submitted for driver's licenses -- birth certificates, utility bills, Social Security numbers and other records -- in an effort to prevent terrorists from obtaining the papers they need to blend into society. But it also would affect undocumented immigrants, such as Camarillo, who lack green cards or visas, yet hold jobs.

The legislation would also authorize completion of a portion of the U.S.-Mexico border fence in San Diego and make it more difficult for asylum seekers to gain citizenship. In effect, critics say, the Real ID Act would be the nation's most powerful anti-immigrant legislation in decades.

Its sponsor, House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.), said Real ID is an effort to adopt some of the recommendations of the commission that investigated the Sept. 11, 2001, attacks. The panel found that terrorists had studied the asylum process and driver's license fraud as ways to enter and move freely about the United States.

While the Bush administration has expressed support for the Real ID Act, White House officials are concerned that debate over the issue on the Senate floor could stall the higher-priority spending bill for the wars in Iraq and Afghanistan, to which the House legislation is attached.

Sen. Larry E. Craig (R-Idaho) wants to protect illegal immigrant farmworkers by granting them permanent citizenship. His proposal could lead to a flurry of other amendments and spark a wide-ranging debate on national immigration policy, taking time from the war bill that is a higher priority for the White House.

Sen. John Cornyn (R-Tex.) said he supports Real ID in its current form, but he acknowledged that many colleagues do not. Cornyn and Sen. Jon Kyl (R-Ariz.) announced last week that they plan to craft legislation to

address their own immigration concerns: border security and a guest-worker plan that would grant limited amnesty to illegal immigrants who currently work in the United States, which President Bush has endorsed.

More than 600 organizations oppose the proposed act for a variety of reasons, including the costs of carrying it out and its potential impact on asylum seekers.

The 9,000-member American Immigration Lawyers Association said the act could close the borders to asylum seekers. One aspect of the Real ID legislation would require immigrants seeking asylum to prove claims of persecution, preferably with documentation, a tall order for people who were in hiding or running for their lives, lawyers said.

"The changes will make it difficult for honest refugees to win their cases but easier for people with bad intentions and a lot of money," said Patricia Lyman, director of Just Law International. "People who have a plan to game the system, who will plan ahead and get every document under the sun, they'll be prepared. Someone truly fleeing a country can't get reports."

Opponents such as the National Governors Association, the National Conference of State Legislatures, the American Association of Motor Vehicle Administrators and the Council of State Governments said the law would be too expensive to implement and might lead to chaos at motor vehicle bureaus.

Cheye Calvo, director of the transportation committee for the conference of state legislatures, said state employees who issue driver's licenses would have to contact vital records employees at 30,000 offices nationwide to verify documents "in real time," forcing long waits for license applicants. About 70 million people apply for state-issued identification, mostly driver's licenses, each year, according to the conference.

The legislatures organization estimated that implementing the reforms would cost between \$500 million and \$700 million over the next five years. States would be required to create licenses with tamper-free features such as digital photos, watermarks, bar codes and possibly magnetic strips. They would also be required to buy equipment to read the licenses, equipment that allows law enforcement agencies in different states to communicate, and find space to warehouse drivers' documents.

Residents of states that decline to participate could not use driver's licenses as identification to board airplanes, apply for Social Security and veterans benefits, or complete tax documents for employers.

Jeff E. Lungren, a spokesman for the House Judiciary Committee, called the cost estimate "preposterous." He said the Congressional Budget Office's estimate of about \$100 million over five years is fair.

Lungren said Real ID would make the public safer. "If you read the 9/11 report, they highlight how al Qaeda studied document fraud and other vulnerabilities in the system," he said. "They undertook the risk and effort to get valid U.S. driver's licenses and state I.D. cards . . . because they allow you to fit in."

In Utah, undocumented workers and their support groups have expressed bitter opposition to the new driving cards, but it is not clear so far what the practical differences will be. Camarillo, for example, said that her boss, her landlord and her neighbors know she is in the United States illegally, but they do not seem to care.

The cleaning firm she works for employs 14 women, "and all of us are illegal," she said. "The boss knows that." Although Camarillo, 47, has no Social Security number, her employer withholds \$225 per month for Social Security, Medicaid and income taxes.

"So I am pay[ing] the same tax," she said. "Why I don't get the same license?" Her auto insurance company assured her, she said, that the driving card will have no impact on her coverage.

On her annual trip to Mexico, Camarillo said she does not need any Utah identification because the airlines accept her "matricula consular," an ID issued by Mexico to nationals living in the United States.

Still, immigrants say, the loss of a driver's license introduces new uncertainty into lives marked by fear of deportation.

"The cop, he stop you, and he know you are illegal," said Milton Rodriguez, a Guatemalan who works as a lawn-cutter in Salt Lake City and is currently contesting a deportation order. "Then, what happen to you?"

Immigrant groups also question why lawmakers focused on undocumented workers and not their employers. Even Bramble, the senator who sponsored the "driving privilege" law, agreed that "we probably need to have that discussion, about whether there should be some sanction against those who employ the illegals."

As in many states, illegal workers without visas play a key role in Utah's economy, particularly in the vital tourist industry.

"It used to be that a town like this could find ski bums who would wait tables and sweep floors in return for a season lift pass," noted Shelley Weiss, the diversity outreach coordinator for the police department in the resort town of Park City. "But that culture is gone now."

Fears reported from Washington.

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REAL ID ACT OF 2005 DRIVER'S LICENSE TITLE SUMMARY

On May 11, 2005, President Bush signed into law the "REAL ID Act of 2005," which was attached to the "Emergency Supplemental Appropriation for Defense, the Global War on Terror, and Tsunami Relief, 2005" (H.R. 1268, P.L. 109-13). Title II of REAL ID—"Improved Security for Driver's License and Personal Identification Cards"—repeals the provisions of a December 2004 law that established a cooperative state-federal process to create federal standards for driver's licenses and instead directly imposes prescriptive federal driver's license standards. The following table summarizes the act's driver's license title.

Provisions / Citation	Summary
Repeal of 9/11 Commission Implementation Act DL/ID Provisions §206	Repeals §7212 of 9/11 Commission Implementation Act of the Intelligence Reform and Terrorism Prevention Act of 2004 (<i>Public Law 108-458</i>), which directed DOT in consultation with DHS to establish a negotiated rulemaking committee of state and federal officials along with other stakeholders to create federal minimum security standards for DL/IDs
Minimum Standards for Federal Use §202(a) §205(b)	<ul style="list-style-type: none"> A federal agency may not accept a driver's license or personal identification card (DL/ID) after May 11, 2008, unless the state has been certified by the U.S. Department of Homeland Security (DHS) in consultation with the U.S. Department of Transportation (DOT) to meet the requirements of the law The DHS Secretary may grant a state an extension to meet the certification requirement if the state provides adequate justification for noncompliance
DL/ID Document Standards §202(b)	<ul style="list-style-type: none"> At a minimum, a state shall include the following information and features on a DL/ID: (1) person's full legal name, (2) person's date of birth, (3) person's gender, (4) DL/ID number, (5) digital photograph, (6) person's address of legal residence, (7) person's signature, (8) physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes, and (9) a common machine-readable technology with defined data elements
Minimum DL/ID Issuance Standards §202(c)(1) §202(c)(3)(B) §202(d)(3) §202(d)(6) §202(d)(10)	<ul style="list-style-type: none"> At a minimum, a state shall require the presentation and verification of the following information: <ol style="list-style-type: none"> A photo identity document (except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth) Documentation showing the person's date of birth Proof of the person's social security account number (SSN) or verification that the person is not eligible for an SSN Documentation showing the person's name and address of principal residence A state shall not accept any foreign document other than an official passport A state shall subject each DL/ID applicant to mandatory facial image capture A state shall refuse to issue a DL/ID to a person holding a DL/ID from another state without confirmation that the person is terminating or has terminated the other state's DL/ID A state shall limit the period of validity of all DL/IDs that are not temporarily issued to a period that does not exceed eight (8) years
Verification of Documents §202(c)(3)(A) §202(d)(5) §202(d)(4)	<ul style="list-style-type: none"> Before issuing a DL/ID, the state shall verify, with the issuing agency, the issuance, validity and completeness of each document to be presented A state shall confirm with the Social Security Administration a SSN presented by a person using the full SSN, in the event a SSN already is registered to or associated with another person to which any state has issued a DL/ID, the state shall resolve the discrepancy and take appropriate action A state shall establish an effective procedure to confirm or verify a renewing applicant's information

Provisions / Citation	Summary
Immigration Requirements Verification of U.S. Citizenship and Lawful Status §202(c)(2)(A), (B)	<ul style="list-style-type: none"> • Before issuing a DL/ID, a state shall require and verify valid documentary evidence that the person: (i) is a U.S. citizen, (ii) is an alien lawfully admitted for permanent or temporary residence, (iii) has a conditional permanent resident status, (iv) is a refugee or has been granted asylum, (v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status, (vi) has a pending application for asylum, (vii) has a pending or approved application for temporary protected status, (viii) has approved deferred status, or (ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status
Temporary DL/ID §202(c)(2)(C) Non-Conforming DL/IDs §202(d)(11) SAVE Participation §202(c)(3)(C)	<ul style="list-style-type: none"> • A state only may issue a temporary license to persons who presents documentary evidence for the categories (v) through (ix) under the evidence of lawful status section above. A temporary DL/ID: <ul style="list-style-type: none"> • Shall be valid only for the period of the applicant's authorized stay in the U.S. or one (1) year if there is no definite end to the period of stay • Shall indicate clearly that it is temporary and shall state the date on which it expires • May be renewed only upon presentation of valid documentary evidence that the status by which the applicant qualified for the temporary DL/ID has been extended by DHS • In any case in which a state issues a DL/ID that does not satisfy the federal requirements, a state shall ensure that that the DL/ID: (A) clearly states on its face that it may not be accepted for federal identification or any other official purpose, and (B) uses a unique design or color indicator to alert federal agencies or other law enforcement personnel that it may not be accepted for any such purpose • No later than September 11, 2005, a state shall enter into a memorandum of understanding with DHS to routinely utilize the automated system known as System for Alien Verification for Entitlements (SAVE) to verify the legal presence status of a non-citizen applying for a DL/ID
Security and Fraud Prevention Standards §202(d)(7), (8) and (9) §203(a)	<ul style="list-style-type: none"> • A state shall ensure the physical security of locations where DL/IDs are produced and the security of document materials and papers from which DL/IDs are produced • A state shall subject all persons authorized to manufacture or produce DL/IDs to appropriate security clearance requirements • A state shall establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of DL/ID • Establishes a federal criminal penalty for persons who knowingly traffic in false or actual authentication features for use in false identification documents, document-making implements, or means of identification
Data Retention and Storage §202(d)(1), (2) and (13)	<ul style="list-style-type: none"> • A state shall employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format • A state shall retain paper copies of source documents for a minimum of seven (7) years or images of source documents for a minimum of ten (10) years • A state shall maintain a state motor vehicle database that contains: (A) all data fields printed on DL/IDs issued by the state, and (B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on license
Linking of Databases §202(d)(12)	A state shall provide electronic access to all other states to information contained in the motor vehicle database of the state
Grants to States §204	<ul style="list-style-type: none"> • DHS may make grants to a state to assist the state in conforming to the minimum federal standards • Authorizes such sums as necessary for the fiscal years 2005 through 2009 to carry out the law (but does not appropriate any money)
Authority §205	Grants authority to DHS to issue regulations, set standards, and issue grants under the law in consultation with DOT and the states

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sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).";

(2) in subsection (b)(9), by adding at the end the following: "Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact."; and

(3) in subsection (g), by inserting "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the date of the enactment of this division and shall apply to cases in which the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of the enactment of this division.

Applicability.
8 USC 1252 note.

(c) TRANSFER OF CASES.—If an alien's case, brought under section 2241 of title 28, United States Code, and challenging a final administrative order of removal, deportation, or exclusion, is pending in a district court on the date of the enactment of this division, then the district court shall transfer the case (or the part of the case that challenges the order of removal, deportation, or exclusion) to the court of appeals for the circuit in which a petition for review could have been properly filed under section 242(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section, or under section 309(c)(4)(D) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101) note). The court of appeals shall treat the transferred case as if it had been filed pursuant to a petition for review under such section 242, except that subsection (b)(1) of such section shall not apply.

8 USC 1252 note.

(d) TRANSITIONAL RULE CASES.—A petition for review filed under former section 106(a) of the Immigration and Nationality Act (as in effect before its repeal by section 306(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1252 note)) shall be treated as if it had been filed as a petition for review under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252), as amended by this section. Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, such petition for review shall be the sole and exclusive means for judicial review of an order of deportation or exclusion.

8 USC 1252 note.

TITLE II—IMPROVED SECURITY FOR DRIVERS' LICENSES AND PERSONAL IDENTIFICATION CARDS

SEC. 201. DEFINITIONS.

In this title, the following definitions apply:

49 USC 30301
note.

(1) **DRIVER'S LICENSE.**—The term “driver's license” means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.

(2) **IDENTIFICATION CARD.**—The term “identification card” means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.

(3) **OFFICIAL PURPOSE.**—The term “official purpose” includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(5) **STATE.**—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

49 USC 30301
note.

Effective date.

SEC. 202. MINIMUM DOCUMENT REQUIREMENTS AND ISSUANCE STANDARDS FOR FEDERAL RECOGNITION.

(a) **MINIMUM STANDARDS FOR FEDERAL USE.**—

(1) **IN GENERAL.**—Beginning 3 years after the date of the enactment of this division, a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of this section.

(2) **STATE CERTIFICATIONS.**—The Secretary shall determine whether a State is meeting the requirements of this section based on certifications made by the State to the Secretary. Such certifications shall be made at such times and in such manner as the Secretary, in consultation with the Secretary of Transportation, may prescribe by regulation.

(b) **MINIMUM DOCUMENT REQUIREMENTS.**—To meet the requirements of this section, a State shall include, at a minimum, the following information and features on each driver's license and identification card issued to a person by the State:

- (1) The person's full legal name.
- (2) The person's date of birth.
- (3) The person's gender.
- (4) The person's driver's license or identification card number.
- (5) A digital photograph of the person.
- (6) The person's address of principle residence.
- (7) The person's signature.
- (8) Physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes.
- (9) A common machine-readable technology, with defined minimum data elements.

(c) **MINIMUM ISSUANCE STANDARDS.**—

(1) **IN GENERAL.**—To meet the requirements of this section, a State shall require, at a minimum, presentation and verification of the following information before issuing a driver's license or identification card to a person:

(A) A photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth.

(B) Documentation showing the person's date of birth.

(C) Proof of the person's social security account number or verification that the person is not eligible for a social security account number.

(D) Documentation showing the person's name and address of principal residence.

(2) SPECIAL REQUIREMENTS.—

(A) IN GENERAL.—To meet the requirements of this section, a State shall comply with the minimum standards of this paragraph.

(B) EVIDENCE OF LAWFUL STATUS.—A State shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that the person—

(i) is a citizen or national of the United States;

(ii) is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) has conditional permanent resident status in the United States;

(iv) has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States;

(vi) has a pending application for asylum in the United States;

(vii) has a pending or approved application for temporary protected status in the United States;

(viii) has approved deferred action status; or

(ix) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States.

(C) TEMPORARY DRIVERS' LICENSES AND IDENTIFICATION CARDS.—

(i) IN GENERAL.—If a person presents evidence under any of clauses (v) through (ix) of subparagraph (B), the State may only issue a temporary driver's license or temporary identification card to the person.

(ii) EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall be valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year.

(iii) DISPLAY OF EXPIRATION DATE.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph shall clearly indicate that it is temporary and shall state the date on which it expires.

(iv) RENEWAL.—A temporary driver's license or temporary identification card issued pursuant to this subparagraph may be renewed only upon presentation

of valid documentary evidence that the status by which the applicant qualified for the temporary driver's license or temporary identification card has been extended by the Secretary of Homeland Security.

(3) **VERIFICATION OF DOCUMENTS.**—To meet the requirements of this section, a State shall implement the following procedures:

(A) Before issuing a driver's license or identification card to a person, the State shall verify, with the issuing agency, the issuance, validity, and completeness of each document required to be presented by the person under paragraph (1) or (2).

(B) The State shall not accept any foreign document, other than an official passport, to satisfy a requirement of paragraph (1) or (2).

Deadline.
Memorandum.

(C) Not later than September 11, 2005, the State shall enter into a memorandum of understanding with the Secretary of Homeland Security to routinely utilize the automated system known as Systematic Alien Verification for Entitlements, as provided for by section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-664), to verify the legal presence status of a person, other than a United States citizen, applying for a driver's license or identification card.

(d) **OTHER REQUIREMENTS.**—To meet the requirements of this section, a State shall adopt the following practices in the issuance of drivers' licenses and identification cards:

(1) Employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.

(2) Retain paper copies of source documents for a minimum of 7 years or images of source documents presented for a minimum of 10 years.

(3) Subject each person applying for a driver's license or identification card to mandatory facial image capture.

(4) Establish an effective procedure to confirm or verify a renewing applicant's information.

(5) Confirm with the Social Security Administration a social security account number presented by a person using the full social security account number. In the event that a social security account number is already registered to or associated with another person to which any State has issued a driver's license or identification card, the State shall resolve the discrepancy and take appropriate action.

(6) Refuse to issue a driver's license or identification card to a person holding a driver's license issued by another State without confirmation that the person is terminating or has terminated the driver's license.

(7) Ensure the physical security of locations where drivers' licenses and identification cards are produced and the security of document materials and papers from which drivers' licenses and identification cards are produced.

(8) Subject all persons authorized to manufacture or produce drivers' licenses and identification cards to appropriate security clearance requirements.

(9) Establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of driver's licenses and identification cards.

(10) Limit the period of validity of all driver's licenses and identification cards that are not temporary to a period that does not exceed 8 years.

(11) In any case in which the State issues a driver's license or identification card that does not satisfy the requirements of this section, ensure that such license or identification card—

(A) clearly states on its face that it may not be accepted by any Federal agency for federal identification or any other official purpose; and

(B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose.

(12) Provide electronic access to all other States to information contained in the motor vehicle database of the State.

(13) Maintain a State motor vehicle database that contains, at a minimum—

(A) all data fields printed on drivers' licenses and identification cards issued by the State; and

(B) motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.

SEC. 203. TRAFFICKING IN AUTHENTICATION FEATURES FOR USE IN FALSE IDENTIFICATION DOCUMENTS.

49 USC 30301
note.

(a) **CRIMINAL PENALTY.**—Section 1028(a)(8) of title 18, United States Code, is amended by striking “false authentication features” and inserting “false or actual authentication features”.

(b) **USE OF FALSE DRIVER'S LICENSE AT AIRPORTS.**—

(1) **IN GENERAL.**—The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).

(2) **FALSE DEFINED.**—In this subsection, the term “false” has the same meaning such term has under section 1028(d) of title 18, United States Code.

SEC. 204. GRANTS TO STATES.

49 USC 30301
note.

(a) **IN GENERAL.**—The Secretary may make grants to a State to assist the State in conforming to the minimum standards set forth in this title.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this title.

SEC. 205. AUTHORITY.

49 USC 30301
note.

(a) **PARTICIPATION OF SECRETARY OF TRANSPORTATION AND STATES.**—All authority to issue regulations, set standards, and issue grants under this title shall be carried out by the Secretary, in consultation with the Secretary of Transportation and the States.

(b) **EXTENSIONS OF DEADLINES.**—The Secretary may grant to a State an extension of time to meet the requirements of section 202(a)(1) if the State provides adequate justification for noncompliance.

SEC. 206. REPEAL.

49 USC 30301
note.
49 USC 30301
note.

Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) is repealed.

SEC. 207. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this title shall be construed to affect the authorities or responsibilities of the Secretary of Transportation or the States under chapter 303 of title 49, United States Code.

~~TITLE III—BORDER INFRASTRUCTURE AND TECHNOLOGY INTEGRATION~~

8 USC 1778.

SEC. 301. VULNERABILITY AND THREAT ASSESSMENT.

(a) **STUDY.**—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Under Secretary of Homeland Security for Science and Technology and the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, shall study the technology, equipment, and personnel needed to address security vulnerabilities within the United States for each field office of the Bureau of Customs and Border Protection that has responsibility for any portion of the United States borders with Canada and Mexico. The Under Secretary shall conduct follow-up studies at least once every 5 years.

(b) **REPORT TO CONGRESS.**—The Under Secretary shall submit a report to Congress on the Under Secretary's findings and conclusions from each study conducted under subsection (a) together with legislative recommendations, as appropriate, for addressing any security vulnerabilities found by the study.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Homeland Security Directorate of Border and Transportation Security such sums as may be necessary for fiscal years 2006 through 2011 to carry out any such recommendations from the first study conducted under subsection (a).

8 USC 1712 note.

SEC. 302. USE OF GROUND SURVEILLANCE TECHNOLOGIES FOR BORDER SECURITY.

Deadline.

(a) **PILOT PROGRAM.**—Not later than 180 days after the date of the enactment of this division, the Under Secretary of Homeland Security for Science and Technology, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection, and the Secretary of Defense, shall develop a pilot program to utilize, or increase the utilization of, ground surveillance technologies to enhance the border security of the United States. In developing the program, the Under Secretary shall—

(1) consider various current and proposed ground surveillance technologies that could be utilized to enhance the border security of the United States;

(2) assess the threats to the border security of the United States that could be addressed by the utilization of such technologies; and

(3) assess the feasibility and advisability of utilizing such technologies to address such threats, including an assessment

Sec. 18.65.310. Identification cards.

(a) Upon payment of a \$15 fee, the department shall issue a card identical to the motor vehicle operator's license provided for in AS 28.15.111, except that the card shall be of a different color and shall state in bold type letters across the face of it that it is for identification purposes only.

(b) A person may obtain an identification card provided for in (a) of this section by applying to the department on forms and in the manner prescribed by the department.

(c) Any person who knowingly makes a fraudulent written statement or application for an identification card concerning age, race, sex, or other identifying characteristics as required by the department is guilty of a misdemeanor.

(d) It is a misdemeanor for any person to possess, use, produce, or manufacture a fraudulent identification card.

(e) It is a misdemeanor for a person to allow an identification card issued to that person to be used by any other person.

(f) A person who violates (c), (d), or (e) of this section is guilty of a misdemeanor punishable by a fine of \$500 or 60 days in jail, or both.

(g) If the person applying for the identification card provided for in (a) of this section is 60 years of age or older, charge may not be made for issuance of the card.

Sec. ~~28.15.031~~. Persons not to be licensed.

(a) The department may not issue a driver's license to a person who is

(1) under the age of 16 years, except that the department may issue a permit under AS 28.15.051 or a restricted license under AS 28.15.121; or

(2) at least 16 years of age but not yet 18 years of age unless the person meets the requirements of AS 28.15.057.

(b) The department may not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended or revoked, except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver, or traffic offense when the person's appearance is required by statute, regulation, or court rule;

(3) who is an habitual user of alcohol or another drug to such a degree that the person is incapable of safely driving a motor vehicle;

(4) *[Repealed, Sec. 4 ch 42 SLA 1988].*

(5) when the department, based upon medical evidence, has determined that because of the person's physical or mental disability the person is not able to drive a motor vehicle safely;

(6) who is unable to understand official traffic control devices as displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(7) who has knowingly made a false statement in the person's application for a license or has committed fraud in connection with the person's application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; or

(8) who is required under AS 28.20 to furnish proof of financial responsibility and who has not done so.

Sec. 28.15.101. Expiration and renewal of driver's license.

(a) Except as otherwise provided in this chapter, a driver's license expires on the licensee's birthday in the fifth year following issuance of the license. A license may be renewed within one year of its expiration upon proper application, payment of the required fee, and except when a license is renewed under (c) of this section, successful completion of a test of the licensee's eyesight.

(b) The department may defer the expiration of the driver's license of a person who is outside the state under terms and conditions that the department shall prescribe by regulation.

(c) A driver's license may be renewed by mail if the licensee complies with (a) of this section, except that a license may not be renewed by mail if

(1) the most recent renewal of the applicant's license was by mail; or

(2) the applicant is 69 years of age or older on the expiration date of the driver's license being renewed.

Louie Flora

From: Annette Kreitzer [annette_kreitzer@gov.state.ak.us]
Sent: Tuesday, March 21, 2006 4:55 PM
To: Louie Flora
Subject: comments on HB 290: ID Cards, Drivers Licenses

Louie:

Representative Seaton asked if we would look at HB 290 in light of the Notary legislation passed last year. We have only one comment on the 2/2/06 draft CS by Luckhaupt LS0981\Y:

1) (h) of the new subsection on Page 1 (lines 5-9) specifically states that this subsection applies to citizens of the US, nationals of the US, legal permanent residents of the US or conditional resident aliens of the US. Subsection (i) however, seems to apply to non-citizens and we wondered why that term is not used. The answer may be that it is not inclusive enough to capture all categories of individuals to be covered under (i), but we raise it because we don't know that to be the case.

Otherwise, this version is consistent with any identification issues in the notary world.
ak

Annette Kreitzer, Chief of Staff
Office of Lieutenant Governor Loren Leman
(907) 465-3520



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Congressman F. James
Sensenbrenner, Jr.

★ ★ ★

Serving Wisconsin's Fifth District

FOR IMMEDIATE RELEASE
May 5, 2005

CONTACT: Raj Bharwani
(202) 225-5101

House Passes Real ID

(WASHINGTON, D.C.) – Menomonee Falls Congressman Jim Sensenbrenner announced that the House of Representatives today passed the \$82 billion Emergency Supplemental Appropriations bill by an overwhelmingly bipartisan vote of 368-to-58. This bill, which the Senate is expected to approve next week, includes funding for defense-related activities, the global war on terrorism, tsunami relief, and the REAL ID Act.

"I am glad the House could complete its work on the emergency supplemental bill. It provides the resources needed by our military to protect the country and win the war against terror. I am especially pleased with its inclusion of the REAL ID Act," said Sensenbrenner.

The REAL ID Act (H.R. 418), approved by the House in February, contains vital border security and terrorism prevention provisions. These provisions were originally passed by the House last fall in the 9/11 Recommendations Implementations Act (H.R. 10) but not included in the final version of the bill enacted last December.

"This sensible legislation is aimed at preventing another 9/11 type attack by disrupting terrorist travel and bolstering our border security. Now more than ever, drivers' licenses can be accepted as identification for federal purposes, such as boarding a commercial airplane, entering a federal building, or a nuclear power plant. Giving state drivers' licenses to anyone, regardless of whether they are here legally or illegally, is an open invitation for terrorists and criminals to exploit. States will now have to require proof of lawful presence in the U.S. before issuing drivers' licenses," stated Sensenbrenner.

Sensenbrenner added, "The REAL ID bill strengthens our border security by shutting down 'Smugglers Gulch,' a canyon along the westernmost California-Mexico border frequently used for illegal entrance into the U.S., so law-abiding Americans are better protected from terrorists, drug smugglers, alien gangs, and violent criminals seeking to operate here."

"The REAL ID Act will also weed out fraudulent asylum applications made by people lying through their teeth. By ferreting out asylum fraud, the supplemental appropriations bill strengthens our asylum system so those legitimately fleeing persecution are welcomed here," Sensenbrenner concluded.

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**AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS
(AAMVA)
BOARD OF DIRECTORS RESOLUTION 03-08
USE OF FOREIGN CONSULAR CARDS FOR IDENTIFICATION PURPOSES**

WHEREAS, the Association has developed an Acceptable Verifiable ID Resources List that includes documents issued by the U.S. and Canadian agencies and organizations that are recommended for use by DMV employees to verify that a person applying for a driver's license or ID card is who he/she is purporting to be; and

WHEREAS, the verifiability of the documents by the issuing agencies was an important factor in considering documents for inclusion on the Acceptable Verifiable ID Resources List; and

WHEREAS, many member jurisdictions have expressed concerns that foreign consular IDs, including Mexico's matricula consular card, lack standardized issuance procedures, uniform security features, and a secure database for verification purposes; and

WHEREAS, the AAMVA Board of Directors recommends the continued use of the foreign passport as an official identification document, and

WHEREAS, AAMVA is in the process of gathering information on other foreign consular ID documents and their possible use for identification purposes; and

THEREFORE BE IT RESOLVED, that the AAMVA Board of Directors believes that it is premature to recommend the use of any foreign consular ID, including Mexico's matricula consular card, at this time, as more information is needed to assess the verifiability of these documents.

BE IT FURTHER RESOLVED, that legal and diplomatic issues also warrant further review and consultation with the United States Department of State as they relate to possible conflicts with the Vienna Convention on Consular Relations and Optional Protocols of 1963.

RESOLVED FURTHER, that the AAMVA Board of Directors accepts and endorses as an AAMVA standard that no other foreign documents be allowed to provide specific data for identification purposes other than foreign passports. A foreign passport in conjunction with the proper immigration documents (i.e. I-94 for the U.S.) is necessary if used to validate legal presence.

Board of Directors Resolution No. 03-08 was passed at a meeting duly held on May 16-17, 2003

Betty L. Serian

Stacey K. Stanton

09-6.2-03

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Provisions	The REAL ID Act (H.R. 418) provisions included in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005 (H.R. 1268)
Authority	Authorizes authority to the Secretary of Homeland Security to issue regulations, set standards and issue grants in consultation with the Secretary of Transportation and the states.
Definitions	<p>In this bill, the following definitions apply:</p> <p>(1) DRIVER'S LICENSE.—The term "driver's license" means a motor vehicle operator's license, as defined in section 30301 of title 49, United States Code.</p> <p>(2) IDENTIFICATION CARD.—The term "identification card" means a personal identification card, as defined in section 1028(d) of title 18, United States Code, issued by a State.</p> <p>(3) OFFICIAL PURPOSE.—The term "official purpose" includes but is not limited to accessing Federal facilities, boarding federally regulated commercial aircraft, entering nuclear power plants, and any other purposes that the Secretary shall determine.</p> <p>(4) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.</p> <p>(5) STATE.—The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.</p>
Grants	<p>Authorizes appropriations for fiscal year 2005-2009 for the Secretary of Homeland Security necessary to carry out this act.</p> <p>Authorizes the Secretary of Homeland Security to make grants to a state to assist in conforming to the minimum standards.</p>
Information Required on the Driver's License and Identification Card	States shall include at minimum, the following information and features on the driver's license and identification card: the person's full legal name, date of birth, gender, driver license or identification card number, a digital photograph, address of principal residence, signature, physical security features designed to prevent tampering, counterfeiting, or duplication of the document for fraudulent purposes and a common machine-readable technology, with defined minimum data elements.
Minimum Issuance Standards	<p>A state shall require, at minimum, presentation and verification of the following information before issuing a driver's license or ID card to an individual:</p> <ul style="list-style-type: none"> • a photo identity document, except that a non-photo identity document is acceptable if it includes both the person's full legal name and date of birth. • documentation showing the person's date of birth. • proof of the person's social security account number or verification that the person is not eligible for a social security account number. • documentation showing the person's name and address of principal residence. <i>wholly bill etc.</i> <p>A state shall require evidence of legal status before issuing a driver's license or identification card. (See Immigration</p>

	<p>Requirements)</p> <p>A state may not accept any foreign document, other than an official passport as proof of identification.</p> <p>A state must subject each person applying for a driver's license or ID card to mandatory facial image capture.</p> <p>7 State must refuse to issue a driver's license or ID card to a person holding a driver's license issued by another state without confirmation that the person is not renewing or has terminated the driver's license.</p> <p>State must limit the period of validity of all driver's licenses and ID cards that are not temporary to a period that does not exceed eight years.</p>
<p>Immigration Requirements</p> <p><i>new format</i></p> <p>Temporary Driver's License and Identification Cards</p>	<p>A state shall require, before issuing a driver's license or identification card to a person, valid documentary evidence that an individual is a citizen of the United States; is an alien lawfully admitted for permanent or temporary residence; has conditional permanent resident status, has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry, has a pending or approved application for asylum; has refugee status, has a pending or approved application for temporary protected status; has approved deferred action status; or has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent resident status.</p> <p>States may only issue a temporary driver's license or identification card to applicants who present evidence of legal status for a valid, unexpired nonimmigrant visa or nonimmigrant visa status, a pending application for asylum, pending or approved application for temporary protected status, approved deferred action status or has a pending application for adjustment of status to that of an alien lawfully admitted for permanent resident in the United States or conditional permanent resident status.</p> <p>A temporary driver's license or identification can only be valid for the period of time of the applicant's authorized stay in the United States or for a period of one year if there is no definite end to the period of authorized stay.</p> <p>A temporary license or ID card must clearly indicate that it is temporary and shall state the date on which it expires.</p> <p>A temporary license or ID card may be renewed upon presentation of valid immigration documents that the status of stay has been extended by the Secretary of Homeland Security.</p>
<p>Verification of Documents</p> <p>* -</p> <p>* -</p>	<p>Before issuing a driver's license or ID card to a person, a state shall verify, with the issuing agency, the issuance, validity, and completeness of each broader document required to be presented by the applicant.</p> <p>State must sign a Memorandum of Understanding with the Department of Homeland Security by September 11, 2005, to use the Systematic Alien Verification Entitlements (SAVE) to verify the legal presence status of an applicant other than a United States citizen.</p>

<p style="text-align: center;">*</p>	<p>States must establish an effective procedure to confirm or verify a renewing applicant's information.</p> <p>States must verify with the Social Security Administration a social security number presented by a person using the full social security number. In the event that a social security number is already registered to or associated with another person to which any state has issued a driver's license or ID card, the state shall resolve the discrepancy and take appropriate action.</p>
<p>Interoperability</p>	<p>States must maintain a motor vehicle database that contains, at a minimum, all data fields printed on drivers' licenses and ID cards issued by the state, and motor vehicle drivers' histories, including motor vehicle violations, suspensions, and points on licenses.</p>
<p>Data retention and storage</p> <p style="text-align: center;">*</p>	<p>States must employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format.</p> <p>States must retain paper copies of source documents for a minimum of seven years or images of source documents presented for a minimum of 10 years.</p>
<p>Fraud Prevention and Security Standards</p> <p style="text-align: center;">*</p> <p style="text-align: center;">*</p>	<p>States must ensure the physical security of locations where drivers' licenses and ID cards are produced and the security of document materials and papers from which drivers' licenses and ID cards are produced.</p> <p>States must subject all persons authorized to manufacture or produce drivers' licenses and ID cards to appropriate security clearance requirements.</p> <p>States must establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of drivers' licenses and ID cards.</p> <p>The Act amends the fraud and related activity in connection with identification documents, authentication features, and information in 18 U.S.C. 1028 (a)(8) by striking "false authentication features" and inserting "false or actual authentication features" so it reads "knowingly traffic in false or actual authentication features for use in false identification documents, document-making implements, or means of identification."</p> <p>The Secretary shall enter, into the appropriate aviation security screening database, appropriate information regarding any person convicted of using a false driver's license at an airport (as such term is defined in section 40102 of title 49, United States Code).</p>
<p>Compliance</p>	<p>Federal agencies are prohibited from accepting a state issued driver's license or identification card for official purposes three years after enactment of this Act unless the state conforms to the minimum standards established in the bill.</p> <p>Each state shall self-certify to the Secretary of Homeland Security whether the state is meeting the minimum standards.</p>

<p style="text-align: center;">*</p>	<p>The certification process shall be established in regulations by the Department of Homeland Security in consultation with the Secretary of Transportation.</p> <p>In any case in which the state issues a driver's license or ID card that does not conform to the minimum standards, state must ensure that such license or ID card clearly states on its face that it may not be accepted by any federal agency for any official purpose; and uses a unique design or color indicator to alert federal agency and other law enforcement personnel that it may not be accepted for any such purpose.</p>
<p>Extensions</p>	<p>The Secretary of Homeland Security may grant an extension to a state to meet the requirements of this Act if the state provides adequate justification for noncompliance.</p>
<p>Repeal</p>	<p>This Act repeals Section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004 that required the Department of Transportation to establish minimum standards for the driver's license and ID card through a negotiated rulemaking.</p>

WHAT EXACTLY IS THE MEXICAN MATRICULA CONSULAR CARD?

The Matricula Consular cards are photo identification cards issued by the Mexican Consulate. They were created as a means for Mexican nationals living in the United States to have a form of pictured I.D. Matricula Consular cards do not indicate immigration status. This type of identification has been used to conduct business, open a bank account, and apply for utility services.

US
IM

IMMIGRATION CARDS

U.S. CITIZENS

Those born in the United States, naturalized, or born abroad to U.S. citizens are almost always citizens. A citizen is not required to carry proof of citizenship.

ALIENS**Immigrants**

Immigrants have permanent residency status and are allowed to work and own property in the United States. The Immigration Reform and Control Act of 1986 permits undocumented aliens who meet certain requirements to apply for permanent residency. Refer to the following page for additional information regarding employment regulations.

Nonimmigrants

Generally, nonimmigrants are not authorized to work in the United States. Some students and exchange visitors may have written employment authorization. Some agricultural laborers also have work authorization.

Parolees

Aliens not otherwise admissible but nevertheless permitted by the government to enter. Employment is allowed on a case-by-case basis.

Illegal Entrants

Those having neither temporary nor permanent stay documents of an unexpired nature.

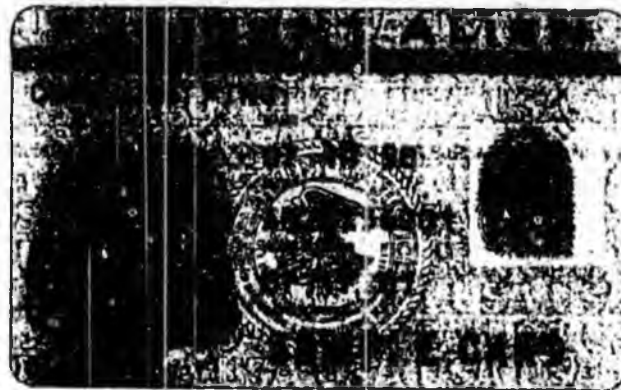
NONIMMIGRANT VISA (NIV)

Issued by the Department of State at U.S. embassies and consulates abroad for travel to the United States, most often for short-term visits but in some cases for longer-term work or study. The nonimmigrant visa may be one of four types (see pages following for illustration and fuller descriptions).

Until 1989, all visas were stamped into passports. These visas, known as Burroughs visas, are characterized by red, green, and blue inks. The validity period of this visa affects only entry to the United States; allowed period of stay in the United States is noted on I-94, which should be stapled to the passport. On September 30, 1997, the Department of State ceased issuing Burroughs nonimmigrant visas. However, previously issued forms remain valid until the expiration date of visa. In 1989, posts began conversion to the first machine-readable (paper foil) visa, which adheres to the passport page. In late 1993, the Department of State began conversion to a machine-readable form of Teslin plastic foil. In early 2002, the State Department began issuing the Lincoln visa. During the phase-in period, both the Teslin and Lincoln visas were issued.

Under the Visa Waiver Program, certain countries have entered into an agreement with the United States to waive the nonimmigrant visa requirement.

Alien Registration Receipt Card (Resident Alien Card)



Form I-551, Prior Issue
This card is no longer issued; however, it is valid until expiration date on card.

Laminated
May or may not have white box around fingerprint.

Front

Signature appears at bottom of card as on Form I-551, page III. 39.



Back

Residency Status: Permanent

Employment: Allowed; Form I-551 may be used to establish both bearer's identity and eligibility to work in the United States.

Other: In August 1989, this form (commonly called a "green card" despite its color) was introduced and issued to permanent residents. From August 1989 to mid-1990, both this form and the I-551 shown on page III. 39 were issued. The photo is part of the form and has no raised edges. The INS seal may or may not overlap a portion of the holder's photo. "I-551" is imprinted in laminate in optically variable ink. All black number and letter spaces on the lower third of the card back are filled with computer characters. "USA" is lightly imprinted on the color portions of both the front and the back of the card. The card has striations from the card stock to the outer rim of the laminate; when viewed from the front, the striations run from upper left to lower right.

The I-551 is usually issued to permanent residents for a 10-year period;

Alien Registration Receipt Card (Resident Alien Card)



Form I-551,
Prior Issue
Laminated

Front

Residency Status: Permanent card does not have an expiration date, except when issued to conditional immigrants; then it is normally valid for 2 years.

Other: The holder's photo is part of the form and has no raised edges.

Alien Registration Receipt Card, Prior Format

Form I-151



Other: Although as of March 20, 1996, the Form I-151 is no longer acceptable as evidence of permanent residence or to establish bearer's eligibility to work in the United States, it is valid for one return to the United States from abroad at which time it must be surrendered and the holder must apply for a new I-551 green card.

The holder's photo is attached to the form and has raised edges.

**Form I-688A
Employment
Authorization Card**

I-688A was issued to applicants for temporary resident status. Valid to expiration date stated on card/sticker.

Back of laminate similar to back of Form I-688B shown on page III. 40; however, statement differs substantially, with first sentence reading "The person identified on the reverse is an applicant for Temporary Resident status under a provision of the Immigration and Nationality Act, as amended by P.L. 99-603."

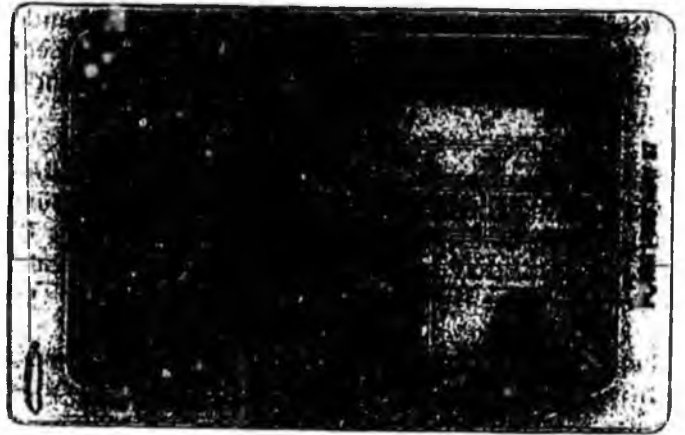
Form I-688 is issued to applicants in the legalization program who are granted temporary residency. It entitles card holder to reside and work in the U.S. for the term of the card (expiration date stated on face of document).



**Form I-688
Temporary
Resident
Identification
Card**

Photo is part of form and has no raised edges. Gold Department of Justice seal superimposed over center.

Front



Back

Residency status:
Temporary

Employment:
Allowed

FORM I-688 (REV. 1-1979)

Presented on this document is authorization for a foreign national to accept employment in the United States. This authorization is granted under the provisions of the Immigration and Nationality Act, as amended, and is subject to the conditions set forth in the regulations of the Department of Justice. The holder of this document is not a permanent resident of the United States and is not eligible for naturalization. This document is valid only for the purpose of employment and must be carried at all times and is void if lost or otherwise altered.

Nonresident Alien Border Crossing Card



Form I-586

Laminated

Front



Back

Residency Status: Nonimmigrant

Employment: Not allowed

Other: Card issued to Mexican citizens for entry into the U.S. as nonimmigrants for visits not to exceed 72 hours or 25 miles from the Mexican border. Time limit and distance can be extended with form I-94 or I-444.

Note: As of October 1, 2001, card cannot be used for border crossing, but it may be used as a tourist visa in conjunction with a valid passport.

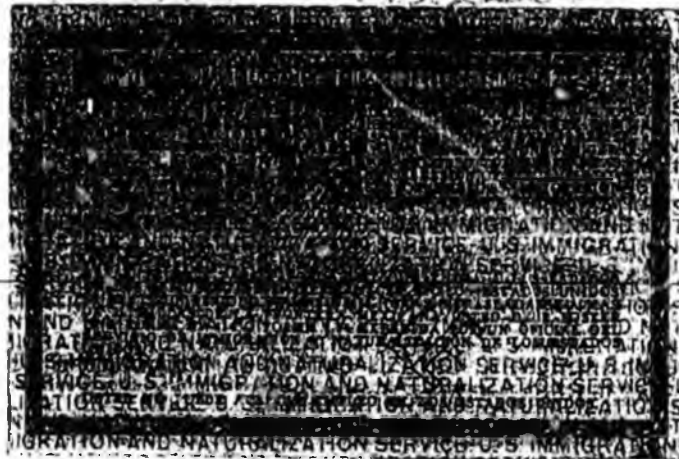
Nonresident Alien Mexican Border Crossing Card (Prior Format)



Form I-186

Laminated

Front



Back

Residency status: Nonimmigrant

Employment: Not allowed

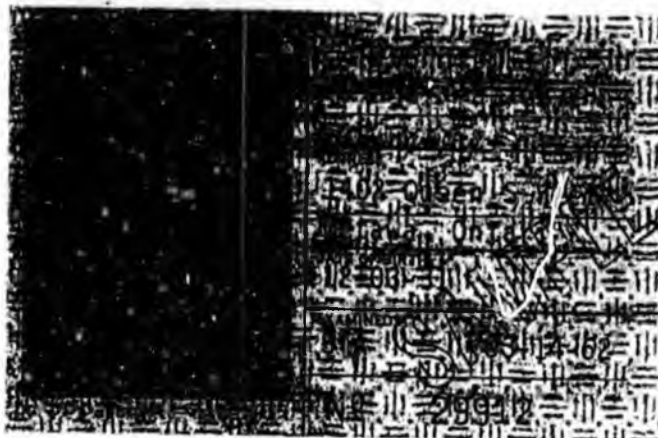
Other: Form I-186 was issued prior to March 1980 at Mexican ports of entry and at U.S. consulates in Mexico until October 1983. Card was issued to Mexican citizens for entry into the United States as nonimmigrants for visits not to exceed 72 hours or 25 miles from Mexican border.

FEDERAL IDENTIFICATION CARD

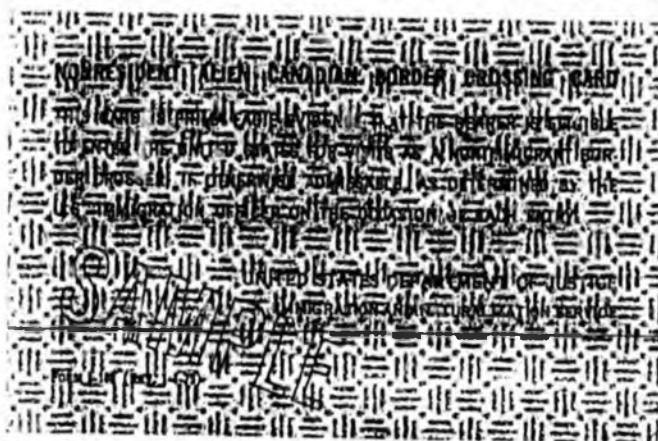
BORDER CROSSING CARD

Nonresident Alien Canadian Border Crossing Card

Form I-185



Front



Back

Residency status: Nonimmigrant

Employment: Not allowed

Other: Card issued to Canadian citizens or British subjects residing in Canada to facilitate border crossings. Card is no longer issued but still in circulation.

Mexican Matrícula Consular – Consular ID Card

Current Issue*

*Card is officially named "Matrícula Consular de Alta Seguridad" or MCAS, in reference to its high-security features, both visible and invisible.



Prior Issue*

*An earlier booklet-like card, not pictured, is also valid until its expiration.

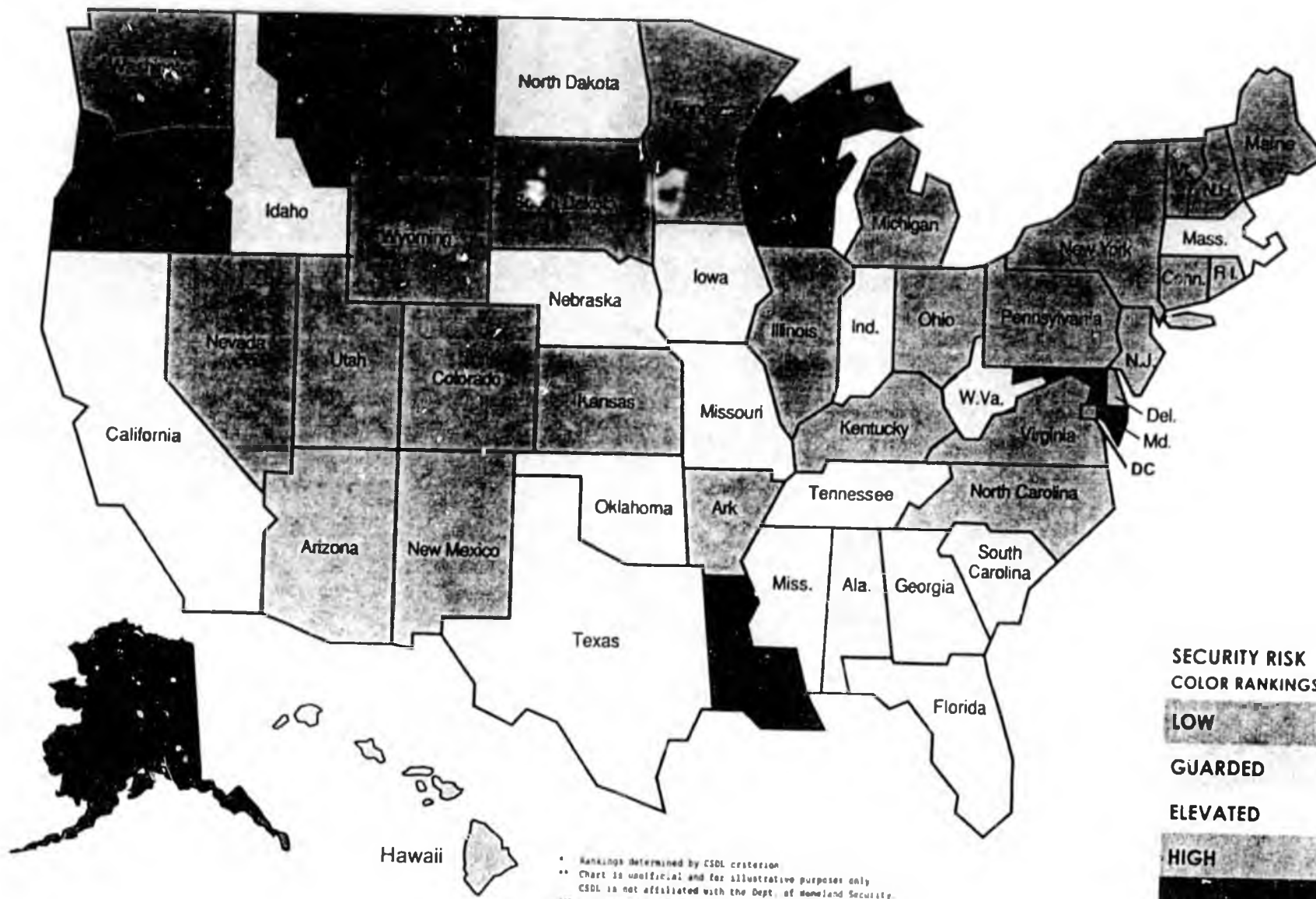


These cards, from the Secretaría de Relaciones Exteriores (Mexican Ministry of Foreign Affairs), are issued by Mexican Consulates to Mexican nationals residing in the United States. The current issue, on green security paper with a special security pattern, is laminated. It has an Advantage™ seal displaying a Mexican official seal that appears over the bearer's picture and that changes color from green to brown when seen under natural light. The acronym "SRE" over the entire front of the card is visible under UV light. There is an infrared band on the back below the magnetic stripe. The signatures of the cardholder and authorizing official are also present.



COALITION FOR A SECURE DRIVER'S LICENSE

Last Updated 3/21/05



SECURITY RISK COLOR RANKINGS KEY



* Rankings determined by CSDL criterion
** Chart is unofficial and for illustrative purposes only
CSDL is not affiliated with the Dept. of Homeland Security.
*** Legal presence is having proper documentation to show that an individual is legally in the United States

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES




COALITION FOR A
SECURE DRIVER'S LICENSE

State	Legal Presence	Visa Expiration	Biometric Data	Verification of S.S. Number	Score	Percent
			✓		2	25
			✓		2	25
				✓	2	25
	✓				2	25
	✓				2	25
			✓		2	25
Michigan	✓		✓		4	50
Utah			✓	✓	4	50
Hawaii	✓		✓		4	50
New Mexico			✓	✓	4	50
Delaware	✓		✓		4	50
Kansas	✓		✓		4	50

Arkansas	✓		✓		4	50
North Carolina			✓	✓	4	50
Connecticut	✓		✓		4	50
Vermont	✓	✓			4	50
Washington			✓	✓	4	50
Maine			✓	✓	4	50
Oklahoma**	✓	✓			5	63
West Virginia	✓	✓		✓	6	75
Mississippi	✓		✓	✓	6	75
Tennessee	✓		✓	✓	6	75
North Dakota	✓		✓	✓	6	75
Missouri	✓		✓	✓	6	75
Indiana	✓		✓	✓	6	75
Iowa	✓	✓	✓		6	75
Nebraska	✓		✓	✓	6	75
Texas	✓		✓	✓	6	75
Idaho	✓		✓	✓	6	75

Georgia	✓		✓	✓	6	75
Massachusetts	✓		✓	✓	6	75
Florida	✓	✓		✓	6	75
South Carolina*	✓	✓		✓	6	75
California	✓		✓	✓	6	75
Alabama**	✓	✓		✓	7	88
Arizona	✓	✓	✓	✓	8	100
Arkansas	✓	✓	✓	✓	8	100
New Jersey	✓	✓	✓	✓	8	100
Minnesota	✓	✓	✓	✓	8	100
Virginia	✓	✓	✓	✓	8	100
Wisconsin	✓	✓	✓	✓	8	100
Illinois	✓	✓	✓	✓	8	100
Ohio	✓	✓	✓	✓	8	100
West Virginia	✓	✓	✓	✓	8	100
South Dakota	✓	✓	✓	✓	8	100
Rhode Island	✓	✓	✓	✓	8	100

	✓	✓	✓	✓	8	100
	✓	✓	✓	✓	8	100
	✓	✓	✓	✓	8	100
	✓	✓	✓	✓	8	100
	✓	✓	✓	✓	8	100

Legal Presence: The State has verified that the licence applicant is in the United States legally.

Visa Expiration: The State ensures that when an applicant is here temporarily, the license he is issued expires when his visa does.

Collection of Biometric Data: The State collects some form of biometric data from each applicant and encodes it on the license.

Plans to Collect Biometric Data: The State has plans in place to collect biometric data.

Presentation and Verification of SSN: The State requires SSNs and verifies each one with the Social Security Administration.

* Please note that the information on these states is in the process of being updated.

**These states have plans set into action to collect biometric data and therefore are given an extra point.