

ALSTON, 2007-2009 7/09

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(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

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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 &amp; 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 &amp; 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 &amp; 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**

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**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

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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

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**Louie Flora**

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**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

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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.<sup>1</sup>

<sup>1</sup> "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:

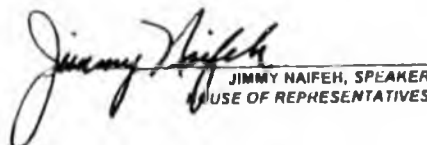
(c) Notwithstanding any other provisions of law to the contrary, certificates for driving issued pursuant to § 55-50-331(g) or § 55-50-331(h) shall be valid during the period of time specified in such subsections.

(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 26<sup>th</sup> 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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## Newsroom

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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](http://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  
1150 Foster Avenue  
Nashville, TN 37249-1000  
615.741.3954

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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> And, some insurance companies in Tennessee are refusing to issue auto insurance to certificate holders, or charging exorbitantly high rates because

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

<sup>2</sup> Tennessee Highway Patrol Activity Report FY00-01—FY02-03.

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

<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> 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.

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

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

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202 216-0266 fax

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

<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> In some cases, clerks have confiscated important documents because they incorrectly decided that the documents were false.

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

<sup>8</sup> *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](mailto: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

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**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

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**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

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*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.<sup>1</sup>

Sample Group	Quantity	Percent
Driving Privilege Card		
Insured	1,876	75.04%
Not Found	624	24.96
<b>Total</b>	<b>2,500</b>	<b>100%</b>
Driver's Licenses		
Insured	2,033	81.32%
Not Found	467	18.68
<b>Total</b>	<b>2,500</b>	<b>100%</b>

<sup>1</sup> 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.

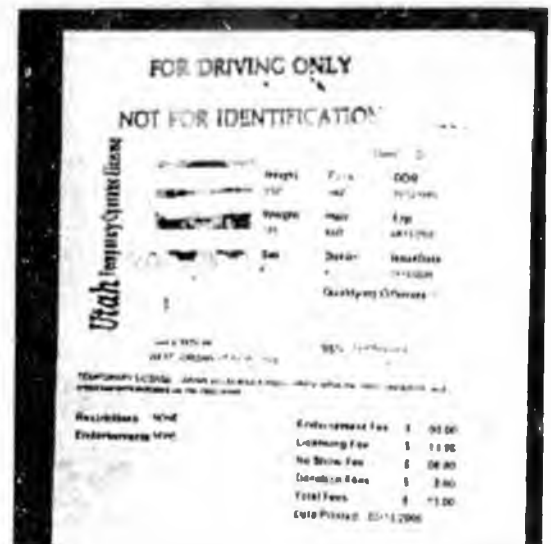
HB223 is sometimes referred to as the sister bill to the much-publicized SB227.

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*

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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

© January 30, 2006

Last updated: 10:59 PM

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.

Reach Bill Burke at (757) 446-2589 or [bill\\_burke@pilotonline.com](mailto:bill_burke@pilotonline.com)

## 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
<b>Repeal of 9/11 Commission Implementation Act DL/ID Provisions</b> §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
<b>Minimum Standards for Federal Use</b> §202(a) §205(b)	<ul style="list-style-type: none"> <li>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</li> <li>The DHS Secretary may grant a state an extension to meet the certification requirement if the state provides adequate justification for noncompliance</li> </ul>
<b>DL/ID Document Standards</b> §202(b)	<ul style="list-style-type: none"> <li>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</li> </ul>
<b>Minimum DL/ID Issuance Standards</b> §202(c)(1) §202(c)(3)(B) §202(d)(3) §202(d)(6) §202(d)(10)	<ul style="list-style-type: none"> <li>At a minimum, a state shall require the presentation and verification of the following information:               <ol style="list-style-type: none"> <li>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)</li> <li>Documentation showing the person's date of birth</li> <li>Proof of the person's social security account number (SSN) or verification that the person is not eligible for an SSN</li> <li>Documentation showing the person's name and address of principal residence</li> </ol> </li> <li>A state shall not accept any foreign document other than an official passport</li> <li>A state shall subject each DL/ID applicant to mandatory facial image capture</li> <li>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</li> <li>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</li> </ul>
<b>Verification of Documents</b> §202(c)(3)(A) §202(d)(5) §202(d)(4)	<ul style="list-style-type: none"> <li>Before issuing a DL/ID, the state shall verify, with the issuing agency, the issuance, validity and completeness of each document to be presented</li> <li>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</li> <li>A state shall establish an effective procedure to confirm or verify a renewing applicant's information</li> </ul>

Provisions / Citation	Summary
<b>Immigration Requirements</b>  Verification of U.S. Citizenship and Lawful Status §202(c)(2)(A), (B)	<ul style="list-style-type: none"> <li>• 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</li> </ul>
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"> <li>• 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"> <li>• 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</li> <li>• Shall indicate clearly that it is temporary and shall state the date on which it expires</li> <li>• 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</li> </ul> </li> <li>• 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</li> <li>• 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</li> </ul>
<b>Security and Fraud Prevention Standards</b> §202(d)(7), (8) and (9)  §203(a)	<ul style="list-style-type: none"> <li>• 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</li> <li>• A state shall subject all persons authorized to manufacture or produce DL/IDs to appropriate security clearance requirements</li> <li>• A state shall establish fraudulent document recognition training programs for appropriate employees engaged in the issuance of DL/ID</li> <li>• 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</li> </ul>
<b>Data Retention and Storage</b> §202(d)(1), (2) and (13)	<ul style="list-style-type: none"> <li>• 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</li> <li>• 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</li> <li>• 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</li> </ul>
<b>Linking of Databases</b> §202(d)(12)	A state shall provide electronic access to all other states to information contained in the motor vehicle database of the state
<b>Grants to States</b> §204	<ul style="list-style-type: none"> <li>• DHS may make grants to a state to assist the state in conforming to the minimum federal standards</li> <li>• Authorizes such sums as necessary for the fiscal years 2005 through 2009 to carry out the law (but does not appropriate any money)</li> </ul>
<b>Authority</b> §205	Grants authority to DHS to issue regulations, set standards, and issue grants under the law in consultation with DOT and the states

Contact Chye Calvo (202-624-8661, [chye.calvo@ncsl.org](mailto:chye.calvo@ncsl.org)) in NCSL's Washington Office for more information.