

## **Immigrants and Driver's Licenses: Immigrant Restrictions are Bad Public Policy**

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Immigrants' eligibility for driver's licenses has been a hot topic since 2001. Misinformation regarding the September 11, 2001 hijackers' immigration status and driver's licenses has led to the introduction of numerous state bills that restricted immigrants from obtaining licenses. At the same time, bills to expand immigrants' eligibility for driver's licenses have had some success.

The federal government got involved in December 2004 when President Bush signed the *Intelligence Reform and Terrorist Prevention Act* which directs the U.S. Department of Transportation to establish "minimum standards" for issuance of driver's licenses. Additionally, the House of Representatives has passed the *REAL ID Act* (H.R. 418) which prohibits states from issuing licenses to undocumented immigrants.

State and federal policies that restrict immigrants' eligibility for driver's licenses are misguided, bad public policy, and make the country less safe.

### **How Driver's License Restrictions Impact Immigrant Communities**

There are 25.4 million lawful immigrants in the U.S. and 10.3 million undocumented immigrants in the U.S.<sup>1</sup> Generally, immigrants do not live alone, but rather live with citizen and other lawfully residing family members: 85 percent of immigrant families with children are "mixed status" families (families in which at least one parent is a non-U.S. citizen and one child is a U.S. citizen).<sup>2</sup> They are working, supporting their families, paying U.S. taxes, and serving in the armed forces. Without licenses, they can't legally drive to the doctor's office, to work, or drive their kids to school. Preventing immigrants from obtaining driver's licenses means that they drive without being tested or insured.

### **Overview of State Driver's License Law and Policy<sup>3</sup>**

Twelve states allow undocumented immigrants to obtain licenses. All other states require immigrants to be lawfully in the U.S. Some states implemented this policy through legislation, while other states have "ad hoc" lawful presence policies created by the combination of documents required to prove identity. For example, New York does not have a lawful presence requirement in the law, but the agency only accepts U.S. documents as proof of identification, thereby prohibiting undocumented immigrants from getting a license. A lawsuit challenging the state's authority to implement this policy is pending.

Requiring a Social Security Number (SSN) also impacts immigrants' eligibility for a driver's license because only work-authorized immigrants are eligible for an SSN. While all states require applicants to submit an SSN, 47 states accept alternatives to the SSN for people who are not eligible for one. For example, 14 states allow applicants to submit an affidavit stating that they have never been issued an SSN or are ineligible for one.

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<sup>1</sup> Jeffrey Passel. *Estimates of the Size and Characteristics of the Undocumented Population*, Pew Hispanic Center, March 2005.

<sup>2</sup> Michael Fix, Wendy Zimmerman, and Jeffrey Passel. *The Integration of Immigrant Families into the United States*, Urban Institute, July 2001.

<sup>3</sup> For an overview of state driver's license policy, see National Immigration Law Center, [http://www.nilc.org/immspbs/DLs/state\\_dl\\_rqmts\\_ovrvw\\_031705.pdf](http://www.nilc.org/immspbs/DLs/state_dl_rqmts_ovrvw_031705.pdf).

Between 2002 and 2005, state legislatures introduced almost 300 bills addressing immigrants' eligibility for driver's licenses. Many of these bills arbitrarily restricted immigrants' eligibility for licenses, and most were defeated. And while the public debate has focused on *undocumented* immigrants' eligibility for driver's licenses, most of the laws that actually passed affect *lawful* immigrants. For example, some laws require the licenses of lawful immigrants to expire at the same time as their immigration documents. In contrast, very few states have actually passed laws that either allow undocumented immigrants to obtain licenses or prevent undocumented immigrants from obtaining licenses.

### **How September 11, 2001 Changed the Driver's License Debate**

The *National Commission on Terrorist Attacks Upon the United States*, known as the *9/11 Commission*, concluded that some of the September 11, 2001 hijackers held state driver's licenses, and recommended that the federal government develop "standards for the issuance of birth certificates and sources of identification, such as drivers licenses." Anti-immigrant organizations immediately trumpeted this recommendation, misrepresenting it as a recommendation for immigrant driver's license restrictions. In fact, new anti-immigrant organizations have emerged since 2001 with the sole mission of preventing immigrants from obtaining driver's licenses.<sup>4</sup> These groups mistakenly (and purposefully) allege that state and federal driver's license requirements would have prevented September 11's<sup>5</sup> tragic events.

Yet, the 9/11 Commission has specifically rejected a connection between the hijacker's immigration status and their ability to obtain driver's licenses. In fact, the *9/11 Public Discourse Project*, a public education campaign created by the 9/11 Commissioners, concluded that immigrant driver's license restrictions would not have prevented the hijackings since all of the terrorists were lawfully in the U.S. when they obtained their licenses.<sup>5</sup> Furthermore, the 9/11 Commission concluded that the terrorists obtained drivers licenses through fraud unrelated to their immigration status.

Unmoored from these facts, anti-immigrant organizations and policymakers continue to employ scare tactics, and misrepresent the findings of the Commission, to achieve their anti-immigrant agenda.

### **Federal Policy**

Driver's license eligibility has always been a matter of state policy. States are in the best position to balance public safety, service, and eligibility for licenses. While most states have taken steps to strengthen driver's license security, there is still broad diversity in state policies.

In December 2004, Congress passed the *Intelligence Reform and Terrorist Prevention Act*. The Act directs the U.S. Department of Transportation (DOT) to set "minimum standards" for identity documents required to obtain a driver's license, including (1) the verifiability of such documents, (2) fraud prevention; and (3) security feature standards for licenses. The Act does not direct DOT to implement immigration restrictions. DOT must work with "interested parties" as part of a negotiated rulemaking process to set these standards, and immigrant organizations are included in the definition of "interested parties." The negotiated rulemaking committee must make its recommendations to DOT by September 2005.

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<sup>4</sup> Two such groups are the "September 11<sup>th</sup> Families for a Secure America" and the "Coalition for Secure Driver's Licenses."

<sup>5</sup> See [http://www.nilc.org/immspbs/DLs/PDPfactsheet\\_DLs\\_9-11&intel\\_reform.pdf](http://www.nilc.org/immspbs/DLs/PDPfactsheet_DLs_9-11&intel_reform.pdf).

During the intelligence reform debate, Representative Sensenbrenner (R-WI) attempted unsuccessfully to include immigrant driver's license restrictions in the bill. In January 2005, he introduced the *REAL ID Act*. The *REAL ID Act* prohibits federal agencies from accepting "for any official purpose" a driver's license unless the state restricts licenses to immigrants who are lawfully in the U.S.<sup>6</sup>

The *REAL ID Act* does not just affect undocumented immigrants. It requires that birth certificates, documents that prove physical residence (such as leases, utility bills, bank statements, or telephone bills), court documents, Social Security cards, U.S. and foreign passports, and immigration documents be verified by the agency that issued them. States argue that this is an impossible burden and a huge unfunded mandate. Privacy advocates argue that the bill establishes a national ID card and allows sharing of personal information without any privacy protections. The *REAL ID Act* passed the House of Representatives in February 2005, but has yet to be introduced in the Senate.

### **Immigrant Driver's License Restrictions are Bad Public Policy**

Arbitrary immigration-status restrictions on driver's licenses are bad public policy, and will adversely affect public safety, national security, and community policing. These restrictions will not reduce the threat of terrorism, and instead simply give the public a false sense of security.

Driver's licenses play an important role in ensuring that drivers know the rules of the road. Licensed drivers have passed a test that demonstrates their knowledge of state driving rules. They are also eligible for insurance. Increasing the rates of licensed and insured drivers on our roads reduces traffic accidents, reduces insurance rates, and makes our roads safer. Police officers and fraternal organizations have acknowledged this fact, and have joined state advocates in pushing for the elimination of lawful presence requirements. Elimination of arbitrary restrictions has additional benefits, too. For example, after New Mexico eliminated its lawful presence requirement in 2003, law enforcement officials reported fewer motorists fleeing after accidents, and uninsurance rates across the state dropped by one-third.

Security experts agree that immigrant driver's license restrictions make the country less safe by creating a "larger haystack" in which the real terrorists can hide.<sup>7</sup> By denying millions of immigrants licenses, these policies also deny law enforcement access to critical information in state motor vehicle databases used to investigate crime and apprehend suspects.<sup>8</sup> In fact, the 9/11 Commission and the FBI tracked down the whereabouts of the September 11<sup>th</sup> hijackers through state motor vehicle databases.<sup>9</sup>

Additionally, driver's licenses restrictions create a segment of society unwilling to interact with law enforcement in matters unrelated to immigration status. A situation in which a large segment of the population fears police contact is ideal for terrorists. Granting immigrants driver's licenses allows law enforcement to focus their attention on the real criminals and terrorists and not on hard-working immigrants.

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<sup>6</sup> For a complete summary of the driver's license provisions in the *REAL ID Act*, see [http://www.nilc.org/immspbs/DLs/REAL\\_ID\\_Act\\_DLprovisions\\_rev0305.pdf](http://www.nilc.org/immspbs/DLs/REAL_ID_Act_DLprovisions_rev0305.pdf). For "Questions & Answers" about the driver's license provisions in the *REAL ID Act*, see [http://www.nilc.org/immspbs/DLs/real\\_id\\_Qs&As\\_0305.pdf](http://www.nilc.org/immspbs/DLs/real_id_Qs&As_0305.pdf).

<sup>7</sup> See press release issued by the Center for Advanced Studies in Science and Technology Policy on December 17, 2004 at <http://releases.usnewswire.com/GetRelease.asp?id=40902>.

<sup>8</sup> Stock, Margaret. "Drivers Licenses and National Security: Myths and Reality." *Bender's Immigration Bulletin*, March 1, 2005.

<sup>9</sup> *Id.*, at 424.

## **Conclusion**

While we can expect proposals that restrict immigrants' eligibility for driver's licenses to continue to be introduced in the coming years, policymakers and the public need to be realistic about what these proposals actually do. It is clear that our immigration system is broken, but we can't fix it through driver's license policy. The solution is real immigration reform, where the millions of undocumented immigrants in this country are allowed to come out of the shadows and pursue a path to citizenship.