

Advisory Committee on Licensing
Undocumented Drivers

Proposals for New York State

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Advisory Committee on Licensing Undocumented Drivers

In response to the on-going suspensions of driver's licenses as a result of the database checkup of social security numbers by the New York State Department of Motor Vehicles (NYSDMV), and the need and desire for undocumented immigrants to have the privilege of driving legally, the Advisory Committee on Licensing Undocumented Drivers (ACLUD) has developed several proposals which will be presented to Governor Pataki accompanied by legislative bills recommending necessary legal changes. These proposals aim to bridge the gap between those New York residents that have lost their driver's license or are in danger of losing it, *due to the lack of a social security number*, and the Department of Motor Vehicles, which by law cannot issue a driver's license to anyone without a social security number.¹

The proposals ACLUD is presenting have been shaped in part by the previous and ongoing efforts to license undocumented immigrants in Tennessee, California, and other states. One major difference, however, between some previous proposals and the ones being presented in New York is the targeted population. For example, in California, the effort was directed to obtain licenses (of equal status as that of a legal resident) for all undocumented applicants, whereas in New York the proposals are specifically aimed at remedying the situation for those persons who already have a New York license in good standing but do not have a social security number nor are eligible for one. In other words, at this time, ACLUD is focusing on the situation of those undocumented individuals who are in danger of losing their driving privilege because of the immediate impact these mass suspensions will have on the thousands of individuals who depend on driving to make a living.

Several considerations were taken into account while developing these proposals. The main concern was the potential impact any of these proposals would have on national security. Prior to September 11, 2001, most states were moving towards expanding their regulations to allow undocumented individuals to apply for a driver's license. Since then, states have passed legislation restricting the issuance of licenses to persons with social security numbers, and efforts to sidestep this restriction have either been halted or failed altogether. Another concern we had was not to develop a proposal that would encourage illegal immigration. Many opponents of licensing undocumented immigrants have claimed giving them licenses would encourage further illegal immigration by rewarding their acts with the privilege of driving. However, since these proposals will not apply to new applicants, we feel the encouragement of illegal immigration will not materialize as a serious threat.

¹ Applicants may obtain a driver's license without a social security number by presenting a letter from the Social Security Administration stating they are a legal resident, but not eligible for a S.S. number, i.e. foreign students and people with work visas.

Yet another concern ACLUD faced was the potential ramifications the revocations of current licenses would have on the general driving public. Based on the situation in California we concluded that if no action is taken to prevent the suspensions in New York, then drivers would take to the roads anyway, without licenses, in order to keep their jobs and continue providing for their families². And just like in California, New York would suffer from an increase in hit-and-run accidents, and consequently, a rise in insurance costs.

Essentially, ACLUD believes room exists between satisfying national security standards and the undocumented immigrants' need to drive. And in establishing satisfactory grounds for this need to drive, we will address various other concerns that have risen. First and foremost, allowing undocumented individuals to apply for a license will ensure that they will be properly tested and certified to drive particular vehicles. This will improve safety on the roads and prevent motorists from driving vehicles they are not qualified to handle. Secondly, national statistics indicate that uninsured motorists cause 14.5 percent of all accidents and more than \$4.1 billion in insurance losses per year.³ Since most insurance companies require that a driver be licensed before they will be insured this will allow them to purchase insurance which, in turn, will reduce the number of hit-and-run accidents and drastically lower the costs of insurance premiums all motorists share by spreading the cost of accident claims among many companies.

Additionally, providing licenses will aid law enforcement and make us safer in several ways. First, a driver's license makes it easier to track outstanding warrants and child support delinquents, and may even increase the willingness of undocumented immigrants to cooperate as witnesses and victims of crimes. Also, some believe making licenses more accessible will decrease the need for false identities, hence reducing identity theft. Furthermore, providing licenses for undocumented immigrants will make the state more aware of the names, addresses, and perhaps even fingerprints of many immigrants who would have otherwise gone undetected.

Lastly, our proposals will continue to be a work in progress, continuously evolving until we have reached a middle ground that satisfies the needs our government and community. The following outlines have been designed to highlight the major components of each proposal.

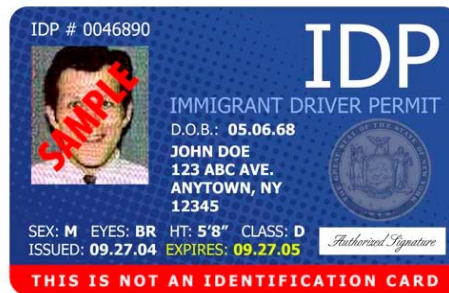
² The San Francisco Chronicle (Cabanatuan, McCormick; July 27, 2003) reported that law enforcement officials and traffic safety experts have pointed to the abundance of unlicensed individuals, among other factors, as possible reasons for the sharp rise in hit-and-run accidents.

³ Based on information reported by Maria Valdez, acting counsel of the Midwest office of the Mexican American Legal Defense and Educational Fund (MALDEF), on October 6, 2003 for the Insurance Journal magazine.

Proposal 1

Immigrant Driver's Permit (IDP)

- Would be available to current New York residents whose driving record is in good standing, and do not have a valid social security number.
- Would not serve as valid ID, except for driving purposes only.
- Would not change a person's residency status.
- Enables a motorist to purchase auto insurance.
- Would be valid for one year with possibility of renewal.
- Would allow DMV to track child support delinquents.
- Different card than the current NYS license.



Proposal 2

Individual Taxpayer Identification Number (ITIN) Substitute

- Driver must apply for an ITIN.
- Submit a notarized letter to DMV from employer stating term of employment, accompanied by the business certification and/or incorporation certificate.
- Submit proof of address (i.e. utility bill).
- Must submit fingerprints (or biometric samples) for background check.

These documents would serve as valid substitution for the social security requirement of the NYS Department of Motor Vehicles.

Proposal 3

Driving Certificate not Valid as I.D.*

- Document looks similar to the current NYS license, but not valid as identification.
- The document would state on its face in bold red letters, **“FOR DRIVING PURPOSES ONLY – NOT VALID AS I.D.”**
- Certificate functions in the same general manner as a NYS license, with the exception its value as an ID.

- See Addendums of the Tennessee Driving Certificate (NOTE: The Addendums explain in detail the Tenn. Driving certificate. Addendums B and C are written in Spanish. They have been included as a model of what is being presented to the applicants in that state, and are subject to modifications to comply with regulations in New York.)

Addendum A

Tennessee Driving Certificate

Tennessee now requires applicants for a driver license to show proof of U.S. Citizenship or Lawful Permanent Residency.

Beginning July 1, 2004 individuals not eligible for a Tennessee driver license may apply for a Certificate for Driving. Individuals eligible for a Certificate for Driving include:

- Persons who have temporary, legal documents from the U.S. government (work visas, educational visas, etc.)
- Persons who do not meet the eligibility requirements for a Tennessee driver license, but can provide proof of identity and residence in Tennessee.

For those individuals legally in the U.S. on a temporary basis, the Certificate for Driving will remain valid for the period of authorized stay in the U.S., provided that a Certificate will not be issued for less than one year nor more than five years. A Certificate for Driving will be issued for a period of one year to individuals who cannot prove they are U.S. citizens or lawful permanent residents.

Individuals may renew a Certificate for Driving upon expiration as long as they are able to continue to provide the required documentation.

A list of acceptable documents showing positive proof of identity and proof of Tennessee residency is found in the Tennessee Driver Handbook.



Addendum B

Regulaciones para Obtener la Licencia de Conductor del Estado de Tennessee

Nuevos Requisitos en Efecto a Partir del 29 de mayo de 2004

El Estado de Tennessee dispone de una nueva ley que requiere comprobante de ciudadanía o de residencia permanente legal de los Estados Unidos, para poder obtener una licencia de conductor del Estado de Tennessee. Esta nueva norma, que se hizo efectiva el 29 de mayo de 2004, establece que quienes soliciten por primera vez la licencia para conducir, así como los residentes nuevos y aquellos que regresen al Estado de Tennessee, deberán presentar documentos que confirmen que son ciudadanos o residentes permanentes legales de los Estados Unidos.

Cuando las personas soliciten una licencia de conductor del Estado de Tennessee, de ahora en adelante deberán presentar lo siguiente:

- Comprobante de ciudadanía o de residencia permanente legal de los Estados Unidos
- Dos documentos de identificación
- Dos documentos que comprueben la residencia en el Estado de Tennessee
- Documento que compruebe el número de Seguro Social (si la persona nunca hubiera recibido un número de Seguro Social, deberá presentar una declaración jurada que especifique que el Seguro Social nunca le fue otorgado)

A partir del primero de enero de 2001, además de las personas que soliciten por primera vez la licencia para conducir en el Estado de Tennessee, también los nuevos residentes o aquellos que regresen a este Estado, así como cualquier persona a quien le hubiere sido emitida una licencia para conducir en el Estado de Tennessee, tendrán que proveer documentación que demuestre que son, ya sea ciudadanos o residente permanentes legales de los Estados Unidos, en el momento en que lleven a cabo su primera renovación. **Si una persona no pudiera presentar pruebas de ciudadanía o de residencia permanente legal de los Estados Unidos, dicha persona no podrá renovar su licencia de conductor. Esas personas podrán recibir un Certificado de Conductor. Los Certificados de Conductor estarán disponibles a partir del primero de julio de 2004.**

Los documentos aceptables para comprobar que un solicitante es ciudadano o residente permanente legal de los Estados Unidos, incluyen pero no están limitados a lo siguiente:

Ciudadanía de los Estados Unidos / Residencia Permanente Legal

- Certificado Oficial de Nacimiento, emitido por un Estado de los Estados Unidos, o una de sus jurisdicciones o territorios (Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, Swain's Island, Guam);
- Documento certificado de nacimiento, emitido por el gobierno de los Estados Unidos
- Certificado de Nacimiento de los Estados Unidos de Ciudadano Nacido en el Exterior) (DS-1350 ó FS-545)
- Documento de Nacimiento en el Exterior de un Ciudadano de los Estados Unidos (FS-240)
- Pasaporte válido o expirado de los Estados Unidos
- Certificado de Ciudadanía (N560 ó N561)
- Certificado de Naturalización (N550, N570 ó N578)
- Tarjeta vigente de identificación militar de los Estados Unidos, de Servicio Activo/Retirado/Reservista (DOD DD-2)
- Tarjeta de Identificación de Ciudadanía de los Estados Unidos (I-197, I-179)
- Tarjeta de Extranjero Residente Permanente INS I-551
- Pasaporte extranjero sellado por el gobierno de los Estados Unidos, que indique que el poseedor fue "Tramitado para I-551"
- Permiso de re-admisión de Residente Permanente (I-327)
- Sello temporario I-551 en el Formulario I-94, Registro de Llegada/Partida, con fotografía del solicitante
- Formulario de Compromiso del Programa del U.S. Department of Receptions and Placement (Refugiado) y Formulario I-94 sellado con el cuño de refugiado
- Formulario I-94, Registro de Llegada o Partida , con el cuño de Asilado, convicto en libertad condicional, refugiado, asilado, HP (Convicto en libertad condicional por razones humanitarias o PIP (convicto en libertad condicional por interés público).

En el [Manual del Conductor del Estado de Tennessee](#), se encuentra una lista de documentos aceptables para comprobar la identidad, así como la residencia en el Estado de Tennessee. (La advertencia: Esto es un documento grande que contiene 100 páginas. El tiempo de la descarga puede ser lento. Usted puede referirse a estas tablas como

alternativa: [Identificación Primaria y Secundaria Aceptable para Obtener una Licencia de Conductor del Estado de Tennessee and Prueba Aceptable de Documentos de Residencia](#)).

Recuerde que se requieren documentos originales o certificados. No se aceptan fotocopias, facsímiles o copias de papel carbón.

Addendum C

Prueba Aceptable de Documentos de Residencia Recuerde: ¡No se aceptan fotocopias!

Prueba de Residencia en el Estado de Tennessee

Dos documentos de la Lista A que demuestren dirección de residencia utilizada en la solicitud, así como su nombre o el nombre de su padre, tutor o cónyuge

O

Un documento de la Lista A y un documento de la Lista B

LISTA A

- Una cuenta actual de servicios públicos, que podría ser teléfono, electricidad, agua, gas, televisión por cable, etc. (Debe incluir el sobre con el matasellos en el que la cuenta fuera enviada por correo) NO se aceptan los recibos de depósitos iniciales
- Declaraciones bancarias actuales (no se aceptan cheques)
- Contrato actual de alquiler o hipoteca, firmado y ejecutado o recibo incluyendo la escritura de la propiedad
- Verificación actual de trabajo por el empleador, incluyendo cheque, talonario de cheque, identificación del empleo o chapa, etc.
- Póliza de seguro actual de automóvil, de vida o médico (no se aceptan tarjetas para billetera)
- Licencia actual de conductor o de Identificación emitida por el Estado de Tennessee a uno de los padres, tutores legales o al cónyuge del solicitante (se requiere presentar prueba de parentesco)
- Registro actual de vehículo motorizado en el Estado de Tennessee
- Registro actual de votante del Estado de Tennessee
- Formulario actual W-2 de impuestos del IRS
- Recibo de propiedad personal o de impuestos sobre bienes raíces pagados durante el último año
- En caso de tratarse de un estudiante matriculado en escuela pública o privada del Estado de Tennessee, el estudiante puede proveer una identificación de estudiante con fotografía y documentación aceptable que estipule que el mismo vive en el recinto universitario.

LISTA B

- Número de Identificación Individual de pago de impuestos (ITIN) emitido por el IRS
- Formulario I-94 emitido al solicitante por el Servicio de Inmigración y Naturalización(INS)
- Documento de autorización para trabajar (E.A.D.) emitido para el solicitante por el INS
- I-551 emitido para el solicitante por el INS