

THE TENNESSEE “DRIVING CERTIFICATE” Not A Model Policy

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■ 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fell victim to election-year politics and false allegations that it compromised state and national security, and it was repealed in 2004.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 May 29, 2004, makes driver’s licenses available only to U.S. citizens, lawful permanent residents, refugees, and asylees. All other applicants are eligible only for a “certificate for driving” that on its face bears the notation (in red lettering on a white background): “FOR DRIVING PURPOSES ONLY. NOT VALID FOR IDENTIFICATION.”

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

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

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

¹ “Legislators Already Want ‘Certificate of Driving’ Law Revamped,” Associated Press, July 2, 2004.

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

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

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



National
Immigration
Law Center
www.nilc.org

NATIONAL IMMIGRATION LAW CENTER

Los Angeles (Headquarters)
3435 Wilshire Blvd
Suite 2850
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax

Washington, DC
1101 14th Street, NW
Suite 410
Washington, DC 20005
202 216-0261
202 216-0266 fax

Oakland, CA
405 14th Street
Suite 1400
Oakland, CA 94612
510 663-8282
510 663-2028

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

■ **The Tennessee “driving certificate” diverts scarce law enforcement resources.**

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

■ **The Tennessee “driving certificate” has deterred foreign business executives from moving to Tennessee.**

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

■ **The Tennessee “driving certificate” imposes administrative and financial burdens on the state.**

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

⁵ Jennifer Price, “Immigrants Learn What Driving Certificates Won’t Do,” *The Tennessean*, January 14, 2005.

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

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

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

FOR MORE INFORMATION, CONTACT

Tyler Moran, NILC policy analyst | moran@nilc.org | 208.333.1424

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

⁸ *League of Latin American Citizens (LULAC) et al. v. Bredesen et al.*, No. 3:04-613 (U.S.D.C. Middle Dist. Tenn. 2004).