

CONTACT

POLICY DEPARTMENT

ELIZABETH KOCIENDA

212.382.4788 | ekocienda@nycbar.org

MARY MARGULIS-OHNUMA

212.382.6767 | mmargulis-ohnuma@nycbar.org

**REPORT ON LEGISLATION
BY THE IMMIGRATION AND NATIONALITY LAW COMMITTEE**

**A.3675-B
S.1747-B**

**M. of A. Crespo
Sen. Sepulveda**

AN ACT to amend the vehicle and traffic law, in relation to the issuance of non-commercial drivers' licenses and learners' permits; and to repeal certain provisions of such law relating to driver's license applications

THIS BILL IS APPROVED

The New York City Bar Association's Immigration and Nationality Law Committee ("the Committee") respectfully submits this report in support of A.3675-B/S.1747-B (the "Bill"), which would provide expanded access to driver's licenses for all residents of New York State, regardless of immigration status. The Committee supports the Bill because it will promote public safety, bring about economic benefits to New York, and protect undocumented community members in this state. The New York City Bar Association's over 24,000 members include attorneys in private practice, government service, non-profit practice, and academia. The Committee is comprised of immigration attorneys, government employees, immigration law scholars, and attorneys specializing in human and civil rights.

The Bill will allow all New York State residents, regardless of immigration status, to qualify for the existing third tier standard license and learner's permit, which is already clearly marked "not for federal purposes." It provides for the acceptance of government-issued foreign documents as proof of identity for standard licenses. Applicants are not required to prove lawful presence in the United States or provide a social security number. The Bill restricts the retention of records by the Department of Motor Vehicles (DMV) for standard license applications for no more than six months and prohibits the disclosure of information or records to law enforcement agencies without a judicial warrant. It has additional privacy protections prohibiting third-party access to DMV databases and record keeping distinguishing standard license holders from federal-purpose license holders.

Nearly one-third of New York State's population are immigrants or the children of immigrants.¹ New York State has long required that applicants have a social security number and

¹ American Immigration Council, *Immigrants in New York*, Oct. 4, 2017, <http://www.americanimmigrationcouncil.org/research/immigrants-in-new-york> (all websites last visited June 8, 2019).

proof of lawful status in order to obtain a standard driver's license. Frequently, these requirements prevent even lawfully residing immigrants from obtaining standard driver's licenses at their local DMV office.

The federal immigration system is complex and inconsistent. Every authorized immigrant may not have the same type of immigration document proving their current lawful status. Immigration statuses are proved by a myriad of documents, some of which do not show clear expiration dates. As a result, many immigrants may be lawfully present even though their status cannot be immediately verified or their immigration document may have expired on its face. Due to current immigration processing times and backlogs,² it is a real concern that many immigrants will not be able to obtain or prove their lawful immigration status at the time they are applying for or renewing their license.

For example, lawfully present immigrants in the process of adjusting status to permanent residence receive an employment authorization document (EAD) valid for one year. The EAD is renewable each year for as long as the adjustment application is pending, which may take several years for the U.S. Citizenship and Immigration Services (USCIS) to adjudicate. The renewal process for work authorization often takes six months or more to receive the new EAD. USCIS automatically grants an extension of 180 days to the expired EAD once a timely renewal application is filed.³ However, DMV offices will often not accept the expired EAD to renew or issue standard driver's licenses despite the federal automatic extension policy.

Currently 12 states⁴ and two territories have expanded access to driver's licenses to motorists regardless of immigration status. However, New York bars more than 725,000 undocumented immigrants from obtaining driver's licenses. The Committee believes that providing access to driver's licenses is a matter of public safety, community integration, and economic growth that will strengthen communities throughout New York State.

ACCESS TO DRIVER'S LICENSES IS A MATTER OF GOOD PUBLIC SAFETY POLICY

Allowing undocumented immigrants to apply for and obtain driver's licenses ensures that they are properly licensed, educated about traffic laws, and operating a registered, inspected and insured vehicle. There are currently three types of driver's licenses issued by New York State, including a standard license that is used for identification purposes and for driving.⁵ This limited purpose driver's license, however, is not compliant with the federal REAL ID Act and will not

² AILA Policy Brief: *USCIS Processing Delays Have Reached Crisis Levels Under the Trump Administration*, Jan. 30, 2019 (Doc. No. 19012834)

³ U.S. Citizenship and Immigration Services, *Automatic Employment Authorization Document (EAD) Extension*, last updated Feb. 1, 2017, <https://www.uscis.gov/working-united-states/automatic-employment-authorization-document-ead-extension>.

⁴ National Conference of State Legislatures, *States Offering Driver's Licenses to Immigrants*, July 8, 2015, <http://www.ncsl.org/research/immigration/states-offering-driver-s-licenses-to-immigrants.aspx>.

⁵ New York State Dep't of Motor Vehicles, *Which ID is Right for Me?*, <https://dmv.ny.gov/which-id-right-me>.

be accepted for such purposes as flying or entering federal buildings after October 1, 2020.⁶ Providing access to driver's licenses will help to build trust between local law enforcement and the immigrant communities they serve. With proper and legal identification, witnesses and victims of crimes will be more willing to report such crimes and cooperate with the police. Police officers will be able to use licenses to verify the identity of motorists during stops and to review their traffic records. Having valid driver's licenses will lead to more accountability among drivers and reduce the number of hit and runs.⁷ Other first responders and healthcare providers will also be able to identify the individuals they assist.

ACCESS TO DRIVER'S LICENSES IS ESSENTIAL TO COMMUNITY INTEGRATION

Public transportation outside of New York City is limited, particularly in rural upstate New York. In these localities, access to driver's licenses is essential to meeting basic daily needs and participating in community life. Expanding access to driver's licenses will allow undocumented immigrants to drive to work, places of worship, and the doctor's office. Parents will be able to show identification to visit their child's school. With state-issued identification, immigrant New Yorkers who do not have bank accounts will have the opportunity to financially integrate and build their family's savings and economic security.

ACCESS TO DRIVER'S LICENSES IS SOUND ECONOMIC POLICY

Expanding access to driver's licenses will help lower insurance premiums for all residents and save New York motorists millions of dollars a year. In addition, New York State and county governments will receive \$57 million dollars in combined annual revenue,⁸ thereby allowing the expanded program to pay for itself. New York State's economy will receive a boost as consumers and workers gain increased mobility and access to better job opportunities.

New York State has more than 4.5 million foreign-born residents,⁹ of which an estimated 725,000 are undocumented.¹⁰ Close to 250,000 of these 725,000 immigrants live in the suburbs

⁶ Albany Law School Government Law Center, *Explainer: Driver's Licenses and Undocumented Immigrants*, updated March 18, 2019, <http://www.albanylaw.edu/centers/government-law-center/Immigration/explainers/Pages/Drivers-Licenses-and-Undocumented-Immigrants.aspx>.

⁷ Hans Lueders et al., *Providing Driver's Licenses to Unauthorized Immigrants in California Improves Traffic Safety*, Proceedings of the National Academy of Sciences. Apr. 3, 2017, <https://doi.org/10.1073/PNAS.1618991114>.

⁸ David Dyssegaard Kallick & Cyierra Roldan, Fiscal Policy Institute, *Expanding Access to Driver's Licenses: Getting a License Without Regard to Immigration Status*, (Jan. 2017), <http://fiscalpolicy.org/wp-content/uploads/2017/01/FINAL-Drivers-licenses-report-2017.pdf>; see also, Kallick & Roldan, Fiscal Policy Institute, *Driving Together: Benefits of Allowing All New Yorkers to Apply for Licenses*, Feb. 15, 2019, <http://fiscalpolicy.org/wp-content/uploads/2019/02/NYS-Drivers-Licenses-2019.pdf>.

⁹ Migration Policy Institute, *State Demographics Data: New York*, accessed Apr. 17, 2019, <https://www.migrationpolicy.org/data/state-profiles/state/demographics/NY>.

¹⁰ Pew Research Ctr., *U.S. unauthorized immigrant population estimates by state*, 2016, <https://www.pewhispanic.org/interactives/u-s-unauthorized-immigrants-by-state/>

and upstate, where residents rely on cars to get to their jobs and school every day.¹¹ This Bill is essential to ensure equitable treatment of residents of the state, regardless of their immigration status. For these reasons, the City Bar supports this legislation that would expand access to driver's licenses for all residents in our state, including undocumented immigrants.

Immigration and Nationality Law Committee
Victoria Neilson, Chair

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¹¹ "Let Undocumented Immigrants Drive," *New York Times*, Apr. 12, 2019, <https://www.nytimes.com/2019/04/12/opinion/undocumented-immigrants-drivers-license-new-york.html>.