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## Immigrants and Michigan Driver's Licenses: Past, Present, and Future

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Prior to 2008, Michigan law contained no requirement that an applicant for a driver's license or state ID card needed a specific immigration or citizenship status in order to be eligible. Applicants did have to submit documents that were sufficient to prove their identity, and they had to show that they were residents of Michigan. A 1995 Michigan Attorney General Opinion stated that because the law had no immigration status requirement, an "illegal alien" could not be denied a driver's license on that basis.<sup>1</sup> The opinion also stated that there was no legal reason why an "illegal alien" could not be considered a resident of a state. In December of 2007, Attorney General Mike Cox issued a new opinion that reversed that finding.<sup>2</sup> The 2007 opinion stated that an unauthorized immigrant cannot be considered a Michigan resident and, in fact, only a Lawful Permanent Resident, sometimes known as a "green card" holder, could be considered a Michigan resident under the law.

The Michigan Secretary of State implemented the 2007 AG opinion in early 2008 and it was very problematic for the dozens of categories of legally present noncitizens who live and work in Michigan, sometimes for many years, without being granted Lawful Permanent Resident status. To address these concerns, the Michigan Legislature changed the law in February of 2008 to require that driver's license and state ID applicants who are not U.S. citizens be "legally present" in the U.S., including both temporary and permanent forms of legal immigration status. The definition of "legally present" has been slightly changed since 2008, but at this point, it refers to federal law to determine who is "legally present."<sup>3</sup> The Michigan law does not currently reflect the requirements of the federal "REAL ID Act", and compliance with that law is not yet required.

In June 2012, the Obama Administration announced a program called Deferred Action for Childhood Arrivals (DACA) which grants temporary relief from deportation and employment authorization cards for young people who entered the U.S. as children and meet certain education and background requirements. (These young people are often referred to as "DREAMers" because they would benefit from the federal DREAM Act if it ever became law.) Initially, Michigan Secretary of State Ruth Johnson indicated that her office did not consider DACA beneficiaries to be "legally present" and would not issue driver's licenses to them. However, after she was sued by a group of DACA beneficiaries and the federal government provided clarification about their legal presence, the Secretary of State reversed her decision and began issuing driver's licenses and state IDs to DACA beneficiaries in February of 2013.<sup>4</sup> The Secretary of State publishes citizenship and legal presence documentation requirements on its website and a copy of the current version of the document is attached.<sup>5</sup>

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<sup>1</sup> OAG No. 6883, available at: <http://www.ag.state.mi.us/opinion/datafiles/1990s/op06883.htm>

<sup>2</sup> OAG No. 7210, available at: <http://www.ag.state.mi.us/opinion/datafiles/2000s/op10286.htm>

<sup>3</sup> Michigan Compiled Laws (MCL) Section 257.307, available at: <http://legislature.mi.gov/doc.aspx?mcl-257-307>

<sup>4</sup> For more detail about the lawsuit, *One Michigan v. Ruth Johnson*, please visit the American Civil Liberties Union of Michigan's website at: <https://www.aclu.org/immigrants-rights/one-michigan-v-ruth-johnson>

<sup>5</sup> Available at: [http://www.michigan.gov/documents/DE40\\_032001\\_20459\\_7.pdf](http://www.michigan.gov/documents/DE40_032001_20459_7.pdf)



## **Frequently Asked Questions about Driver's Licenses for Michigan Immigrants:**

### ***Who can change the driver's license law in Michigan to allow undocumented immigrants to obtain driver's licenses?***

Only the State Legislature can change the law. The Secretary of State cannot change it on her own and neither can the Attorney General or the Governor. The State Legislature could remove the requirement that applicants show "legal presence" or it could create a separate type of driving license or permit for those who do not demonstrate "legal presence." The Governor would have to sign a bill into law after the State Legislature acted.

### ***Is it enough to have a Social Security number?***

No. Some people who are not legally present have Social Security numbers and some people who are legally present do not have them. But, Michigan law does not require that people have Social Security numbers to get driver's licenses. It requires legal presence. The law does require that people who actually have Social Security numbers provide them. Those who do not have them but are legally present can provide documentation from Social Security that they are not eligible for a number.

### ***Does Federal law prohibit the issuance of driver's licenses to people who are not legally present in the U.S.?***

No, it doesn't. There is a Federal law called the REAL ID Act which sets standards for driver's licenses and state IDs to have them recognized for a "federal purpose" like boarding an airplane or entering a federal building. One of the requirements of the REAL ID Act is that states require proof of legal presence if they want their licenses to be recognized for a federal purpose. States do not yet have to comply with the REAL ID Act, but one day, they might have to. Regardless, states would remain free to have their driver's licenses be noncompliant with REAL ID. (People would have to have a separate, federally recognized document for federal purposes, like a passport.) They would also be free to create one form of REAL ID compliant licenses and another separate form of non-compliant licenses or permits that could be used for driving but not for federal purposes. Several states, like Illinois, have already done this.

### ***Is there a bill pending right now in the Michigan Legislature that would change Michigan law and allow undocumented immigrants to get driver's licenses?***

No.

### ***Can Deferred Action for Childhood Arrivals (DACA) beneficiaries get Michigan driver's licenses now?***

Yes.

### ***Can I use an International Driver's License to drive in Michigan?***

"International Driver's Licenses" don't actually exist. It is often confused with the International Driving Permit (IDP), which is a translation of a current valid driver's license into several languages. The IDP is not valid by itself – it can only be used together with a valid foreign license. It is only valid for one year and is not valid in the country where it is issued. In addition, international treaties allow citizens of certain countries to use a valid license issued in their home country to drive in the U.S.. An IDP is not required in the U.S., but it can be helpful if the license is in a foreign language. Some of the countries whose citizens can use validly issued licenses are Mexico, Brazil, Colombia, Canada, and the United Kingdom.

### ***How can I stay informed about changes to Michigan laws affecting immigrants?***

Join the Michigan Immigrant Rights Center's email lists by emailing us at [mirc@michiganimmigrant.org](mailto:mirc@michiganimmigrant.org), "like" us on Facebook, and check our website, [www.michiganimmigrant.org](http://www.michiganimmigrant.org) frequently!