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

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## Looking back: Michigan licenses issued regardless of immigration status

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.

## Where we are: "legal presence" requirements and use of foreign licenses

The Michigan Secretary of State implemented the 2007 AG opinion in early 2008. It had the immediate effect of denying licenses to all people who are undocumented. In addition, it excluded dozens of categories of legally present noncitizens who live and work in Michigan who have not been granted Lawful Permanent Resident status. To clarify who was eligible for a driver's license, the Michigan Legislature changed the driver's license and state ID laws in February of 2008 to define a "resident" of Michigan as someone who resides in the state and is "legally present." The definition of "legally present" has been changed slightly since 2008, and now references those who are "authorized under federal law" to be in the United States.<sup>3</sup> Since Michigan residency is a requirement for a Michigan driver's license, the revised definition of residency also makes "legal presence" a requirement.

In June 2012, the Obama Administration announced the Deferred Action for Childhood Arrivals (DACA) program, granting temporary relief from deportation and employment authorization for young people who entered the U.S. as children and met certain education and background requirements. (Individuals sometimes 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 2013.<sup>4</sup>

While noncitizens without legal presence continue to be denied access to a Michigan driver's license, Michigan recognizes the right to drive with a valid foreign driver's license from certain countries, party to treaty agreements with the United States.<sup>5</sup> Noncitizens with a valid foreign license and translation from a treaty country such as Mexico, Lebanon, India, Korea or Guatemala can legally drive in Michigan, without needing to show legal presence.<sup>6</sup>

<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(15), available at: <http://legislature.mi.gov/doc.aspx?mcl-257-307>

<sup>4</sup> Details about *One Michigan v. Ruth Johnson* available at <https://www.aclu.org/immigrants-rights/one-michigan-v-ruth-johnson>

<sup>5</sup> MCL Section 257.302a, available at

[http://www.legislature.mi.gov/\(S\(mva1sp4fbjdp2hnd3qpkvjg\)\)/mileg.aspx?page=getObject&objectName=mcl-257-302a](http://www.legislature.mi.gov/(S(mva1sp4fbjdp2hnd3qpkvjg))/mileg.aspx?page=getObject&objectName=mcl-257-302a)

<sup>6</sup> See page 4 of this document for full list of countries party to a treaty agreement.



## Looking forward: REAL ID & opportunities for new law

Beginning Oct. 1, 2020, the federal government will not allow Michigan residents to board domestic flights or enter federal buildings with a Michigan driver’s license or ID card unless it complies with certain federal REAL ID Act requirements. Michigan began issuing these REAL ID cards and licenses in August 2017. Michigan also continues to issue standard IDs and licenses. Beginning in October 2020, these standard IDs and licenses will not be accepted as a form of federal identification but will continue to be valid for driving and other identification purposes. REAL ID licenses for federal identification require proof of “lawful status” and differentiate between temporary and permanent types of status. Michigan’s standard licenses continue to require proof of “legal presence” which is slightly broader. See below for a comparison:

<i>REAL ID license: “lawful status”</i>		<i>Standard License: “legal presence”</i>
<i>Lawful Status</i>	<i>Temporary Lawful Status</i>	<i>Legal Presence</i>
Permanent resident (green card)	Nonimmigrant status	Broader than “lawful status.” Includes all statuses listed to the left. In addition, may include others, i.e. Order of supervision’
Asylee	TPS	Applicant for Cancellation w/EAD
Refugee	Deferred action/DACA	
	Pending applicant for asylum, TPS, or green card	

The Michigan Secretary of State publishes documentation requirements for proving legal presence on its website.<sup>7</sup> The current list of accepted documents contains serious deficiencies that have created significant issues for applicants, especially when applying for a standard license. The list is overly narrow and fails to differentiate between documents needed for REAL IDs and documents needed for standard licenses. Many advocates have reported that this publication along with lack of appropriate training, have resulted in Secretary of State staff erroneously requiring applicants to present a stamped passport as proof legal presence.

Looking to the future, the State of Michigan could still pass a law allowing standard licenses to be issued without requiring proof of legal presence. The state would still be in full compliance with the REAL ID Act and Michigan-issued REAL IDs would still be valid for federal purposes.

# Frequently Asked Questions about Driver’s Licenses for Michigan Immigrants

## Does federal law prohibit issuing 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 establishes criteria for driver’s licenses and state IDs to be recognized for “federal purposes” like boarding an airplane or entering a federal building. These REAL ID licenses require proof of lawful status. However, the REAL ID Act also allows states to continue issuing standard licenses, without any immigration status requirements. Michigan currently issues both REAL ID licenses and standard licenses, and could choose to pass legislation eliminating the legal presence requirement for standard licenses. Several states, like Illinois, have already done this.

## Who can change the 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 requirements that applicants show “legal presence” for standard license eligibility and state residency or it could create a separate type of driving

<sup>7</sup> Available at: [https://www.michigan.gov/sos/0,4670,7-127-1627\\_8669\\_9040\\_9043-312849--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1627_8669_9040_9043-312849--,00.html) or in PDF form at [https://www.michigan.gov/documents/DE40\\_032001\\_20459\\_7.pdf](https://www.michigan.gov/documents/DE40_032001_20459_7.pdf)

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

In 2017 representatives Stephanie Chang and David Pagel introduced House Bills 4794 and 4795 to eliminate the legal presence requirement from the definition of Michigan residency and allow all individuals living in Michigan access to a state ID or driver’s license, regardless of immigration status. These bills were nearly identical to bills introduced the previous year (HB5940 and HB5941), by representatives Harvey Santana and Stephanie Change.

### **Is it possible to get a driver’s license with just a Social Security number?**

No. Michigan law requires legal presence, not having a Social Security number. Being legally present and having a Social Security number are somewhat related, but are not the same thing. Some people who are not legally present have Social Security numbers and some people who are legally present do not have them. The law does require that people who actually have Social Security numbers provide them to the Secretary of State. Those who do not have them but are legally present can provide documentation from Social Security that they are not eligible for a number.

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

Yes, if they have current DACA status.

### **Can I use a foreign driver’s license, from my home country to drive in Michigan?**

If you are a U.S. citizen or you are legally present and you live in Michigan, you might be required to get a Michigan driver’s license. However, if you do not have “legal presence” under current law you are not considered a Michigan resident for purposes of a driver’s license and you may be permitted to drive with a valid foreign license. If your license is from a “treaty country” (see page 4), you can use it to drive legally, as long as you also carry an “International Driving Permit” or, if that’s not available, a translation of your license with a color photo (see page 4). If your license is from a “non-treaty country,” you must also have “a valid passport, a valid visa, or other valid documents to verify [your] legal presence in the U.S.”<sup>8</sup>

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

No, however some individuals may be permitted to drive with a *foreign* license (see above). “International Driver’s Licenses” don’t actually exist. They are 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.

### **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!

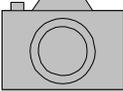
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<sup>8</sup> MCL Section 257.302a, available at [http://www.legislature.mi.gov/\(S\(mva1sp4fbjdp2hnd3qpkyjg\)\)/mileg.aspx?page=getObject&objectName=mcl-257-302a](http://www.legislature.mi.gov/(S(mva1sp4fbjdp2hnd3qpkyjg))/mileg.aspx?page=getObject&objectName=mcl-257-302a)

## Treaty Countries: Foreign License Accepted in Michigan without Legal Presence

Albania | Algeria | Argentina | Australia | Austria | Bahamas | Bangladesh | Barbados | Belgium | Belize | Benin | Botswana | Brazil | Bulgaria | Burkina Faso | Cambodia | Canada | Central African Rep. | Chile | China (Taiwan) | Colombia | Congo | Congo Democratic Rep. | Costa Rica | Cote d'Ivoire | Cuba | Cyprus | Czech Rep. | Denmark | Dominican Republic | Ecuador | Egypt | El Salvador | Fiji | Finland | France | Gambia | Georgia | Germany | Ghana | Greece | Grenada | Guatemala | Guyana | Haiti | Honduras | Hong Kong | Hungary | Iceland | India | Ireland | Israel | Italy | Jamaica | Japan | Jordan | Korea | Kyrgyz Rep. | Laos | Lebanon | Lesotho | Luxembourg | Macao | Madagascar | Malawi | Malaysia | Mali | Malta | Mauritius | Mexico | Monaco | Morocco | Namibia | Nicaragua | Netherlands | New Zealand | Niger | Nigeria | Norway | Panama | Papua New Guinea | Paraguay | Peru | Philippines | Poland | Portugal | Romania | Russian Federation | Rwanda | St. Lucia | St. Vincent & the Grenadines | San Marino | Senegal | Serbia and Montenegro | Seychelles | Sierra Leone | Singapore | Slovak Rep. | South Africa | Spain | Sri Lanka | Suriname | Swaziland | Sweden | Syrian Arab Rep. | Tanzania | Thailand | Togo | Trinidad & Tobago | Tunisia | Turkey | Uganda | United Arab Emirates | United Kingdom | Uruguay | Vatican City | Venezuela | Vietnam Rep. | Western Samoa | Yugoslavia | Zambia | Zimbabwe

### Sample Translation of Pertinent Parts of Foreign Driver's License

NAME:	MIDDLE:	LAST:	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
PHONE NUMBER:	HOME STREET ADDRESS ON LICENSE:		
<input type="text"/>	<input type="text"/>		
CITY:	STATE/PROVINCE:	ZIP CODE:	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
DRIVER'S LICENSE NO.:	COUNTRY OF ISSUE:	EXPIRATION DATE:	 <b>Attach photo of driver</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>	
BIRTHPLACE CITY	BIRTHPLACE COUNTRY:	BIRTHDATE (mo/day/yr):	
<input type="text"/>	<input type="text"/>	<input type="text"/>	

Please check the appropriate box below to indicate the type of vehicle for which license is valid:

- MOTORCYCLE   
  PASSENGER CAR   
  VEHICLE OVER 7,700 LBS  
 VEHICLE OVER 8 SEATS   
  VEHICLE WITH HEAVY TRAILER

#### Translator's Certification

I, \_\_\_\_\_, am competent to translate from the \_\_\_\_\_ language to English and certify that the above information is a true and correct translation of the pertinent parts of the attached foreign driver's license.

SIGNATURE OF TRANSLATOR: \_\_\_\_\_ DATE: \_\_\_\_\_

Telephone number and agency of translator, if any: \_\_\_\_\_