

HISPANIC/LATINO ACCESS TO THE  
INDIANA DRIVER'S LICENSE

**Follow- Up Report on the  
Challenges of Obtaining an  
Indiana Driver's License**

A REPORT TO INDIANA GOVERNOR  
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AND  
THE INDIANA LEGISLATIVE COUNCIL

Submitted By:

The 2005 Driver's License/Immigration Subcommittee of  
The Indiana Commission on Hispanic/Latino Affairs

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## EXECUTIVE SUMMARY

The Indiana Commission on Hispanic/Latino Affairs (ICHLA) Driver's License/Immigration Subcommittee was formed in response to growing public concern regarding changes in the Bureau of Motor Vehicles (BMV) policy that restricted access to the Indiana driver's license. The subcommittee presents the follow-up report to a previous subcommittee report titled, "*Hispanic/Latino Access to the Indiana Driver's License: A Report on the Challenges of Obtaining an Indiana Driver's License.*" The goal of this report is to reiterate that the current Indiana driver's license policy renders some Hispanic/Latino Hoosiers ineligible to obtain an Indiana driver's license. The follow-up report provides recommendations and policy alternatives to remedy specific driver's license issues related to the unlicensed motorist of the state of Indiana.

In 2005, the Center for Immigration Studies reported that 7.9 million people have moved to the United States in the past five years, the highest five-year period of immigration to the United States on record. The U.S. Census reports that the largest increases in Indiana's Hispanic/Latino population occurred in rural counties. Cass County has the highest population followed by Monroe, Noble, Hendricks, Porter, Kosciusko, Vanderburgh, and Wayne and White counties, (not an exhaustive list).

In 2003, the National Immigration Forum reported that immigrants and their businesses contributed \$162 billion dollars in tax revenue to United States federal, state, and local governments. In addition a 2005 report from the Selig Center for Economic Growth, University of Georgia, reported that the current buying power of Hispanics/Latinos in Indiana for 2005 was **\$ 4,866,103,000.00**.

May 11, 2005, President Bush signed into law the "REAL ID Act of 2005." Title II of the REAL ID Act directly conflicts with the 2004 Intelligence Reform and Terrorism Prevention Act by mandating prescriptive federal driver's license standards. The REAL ID Act does not provide any specific information on documentation requirements that States must require when issuing driver's licenses or identification documents that do not adhere to the REAL ID guidelines.

Those opposed to issuing undocumented immigrants a driver's document argue that restricting access enhances national security and restricts and controls illegal behavior. In addition, they argue that denying the privilege of driving minimizes identity theft and illegal immigration and preserves jobs and privileges for U.S. citizens.

In contrast, proponents emphasize the contributions undocumented immigrants make to the state, through activities such as paying taxes, purchasing homes, opening bank accounts and raising families. They argue that the issuance of a driver's license is no more validation for being legally present in the United States than the employers' willingness to give jobs to those they suspect to be undocumented and the Federal government's issuance of the Individual Tax Identification Number (ITIN) to undocumented individuals so that they are able to pay their taxes while working illegally in the United States. Proponents also stress that overly restrictive policies encourage the proliferation of false documents, making driver's licenses a less reliable means of establishing identity.

According to the Indiana Bureau of Motor Vehicles (BMV), from January 2004 to December 2005, the BMV had issued “stop processing” instructions on 1,570 Title applications. They have suspended, on average, 5 to 10 registrations per month, citing that the agency has been unable to process the registrations due to the individual’s failure to supply adequate Social Security number verification.

This report proposes alternative solutions to Indiana by introducing a comparative analysis of Tennessee’s Driving Certificate and Utah’s Driving Privilege Card. Tennessee’s driver’s license policy has drawn national attention from state policymakers and immigrant advocates. A recent Associated Press article titled, “*Tennessee Certificates lure Illegal Immigrants,*” reported on the influx of “out of state” undocumented Mexicans arriving in Tennessee by buses from surrounding states to apply for a “driving certificate.” In addition, Tennessee’s Governor has ordered the DMV “issuance system” tightened since he saw an ad in a Spanish-language newspaper in Georgia promoting package deals for locals to pay a certain amount of money to get a bus ride to Tennessee and assistance in obtaining a driving certificate.

Utah is currently leading the nation in its response to the Real ID Act and its timeliness and innovation in addressing the immigrant driver’s license issues. After addressing the oversights of Tennessee’s driver’s license policy, Utah enacted a law that revokes the use of an Individual Tax Identification Number (ITIN) issued by the Internal Revenue Service to obtain a Utah Driver’s License or a State identification Card. Those individuals using an ITIN will be issued a Driving Privilege Card rather than a “Driver’s License”.

### **RECOMMENDATIONS**

The Indiana Commission on Hispanic/Latino Affairs (ICHLA) makes the following recommendations:

- **Develop and implement an Indiana “Driver’s Document” Pilot Program.**
- **Pending Results of the Pilot Project -Pass Legislation to allow for the Issuance of an Indiana Driver’s Document.**
- **Establish a bi-partisan task force/committee to study, address, and advise and/or promote the project findings and to follow immigrant migration patterns both in and out of Indiana.**
- **Establish support for the Driver’s Document from the Insurance Industry, Law Enforcement, Interstate Compact states, the courts, Indiana’s Hispanic/Latino communities, and the public**
- **Continue to provide training for BMV employees on policy and identification verification procedures**

- **Continue to provide updated translated Spanish versions of the Indiana Driver's Manual and other pertinent documents as the English versions are updated**
- **Re-evaluate the legal presence requirement restricting immigrant access to the driver's license**
- **State and local governments should collaborate to implement a driver's document, and insure that those individuals receiving the document have been educated and informed of Indiana's traffic laws and insurance requirements.**
- **Implement a renewal policy of three years rather than annually, this will reduce waiting time, administrative and agency costs, confusion, and will encourage more people to apply for the driving document.**
- **Develop a "fact sheet" that will help explain to the public the impact of any changes in the law, driver's license policy or any driving document policy. The fact sheet must also clearly explain that the driver's document is NOT FOR IDENTIFICATION PURPOSES.**
- **Follow Utah's lead in not granting any new or additional immigration authority to law enforcement.** If stopped by law enforcement the officer can require the individual to show a driver's license and then determine if the individual has obtained the license/document using an ITIN.
- **Develop and establish a plan of action to address the possibility of undocumented immigrants traveling to Indiana to receive a "driver's document."** Safeguards must be implemented against issuance of the driver's document to only eligible Indiana residents. There must be an audit process available to insure that BMV employees follow BMV policies and guidelines when issuing a driving document.

## **I. INTRODUCTION**

The Indiana Commission on Hispanic/Latino Affairs (ICHLA) Driver's License/Immigration subcommittee was formed in response to public concern regarding change in Bureau of Motor Vehicles (BMV) policy that restricts access to the Indiana driver's license. The subcommittee convened on numerous occasions during 2005 and generated input not only from Subcommittee members, but also from community leaders around the state via the Commission's public forums. The subcommittee consists of representatives from the Indiana Bureau of Motor Vehicles, the Indiana Department of Correction, rural and urban law enforcement, insurance agencies, community organizations, labor groups, municipal governments, universities, immigration attorneys, state legislators and the Sagamore Institute for Policy Research.

The subcommittee presents the follow-up report to a previous subcommittee report titled “*Hispanic/Latino Access to the Indiana Driver’s License: A Report on the Challenges of Obtaining an Indiana Driver’s License.*” The current report has the following goals:

- To reiterate that the current driver’s license policy renders some Hispanic/Latino Hoosiers ineligible to obtain an Indiana driver’s license and creates barriers for others that are eligible
- Reports on how Tennessee and Utah have addressed their driver’s licenses issues.
- Provides alternatives to the Indiana driver’s license
- Makes recommendations to remedy specific issues related to the unlicensed motorists of Indiana

## **II. BACKGROUND**

### **A. The Hispanic/Latino Population**

The Hispanic/Latino population is currently the largest minority group in the country, and a significant portion of the population is immigrant. The United States Census reports that there are currently over 40 million “Hispanic” individuals residing in the U.S. A December 2005 report titled, “*Immigrants at Mid-Decade: a Snapshot of America’s Foreign-Born Population in 2005,*” the Center for Immigration Studies reported that 7.9 million people had moved to the United States in the past five years, making it the highest five-year period of immigration to the United States on record. The report indicated that there are 35.2 million foreign-born people living in the United States and that an estimated 9 to 13 million are in the United States illegally.

Indiana is home to many Hispanics/Latinos and a significant immigrant population. According to the 2004 United States Census Bureau annual population estimates, the Hispanic/Latino population in Indiana is currently estimated at 242,518 and has been steadily increasing. This number is believed to be much higher because many Hispanics/Latinos have been counted in the 120,272 persons that reported themselves as “some other race” or in the 104,841 persons that were counted under the category of “two or more races.” The largest increases in Indiana’s Hispanic/Latino population have occurred in rural counties. Since the 1990 U.S. Census, counties such as Crawford, Davies and White have had over 700% increases in their Hispanic/Latino population, while Cass County has had an increase of over 1300%. Dubois, Hendricks, Montgomery and other counties have also been heavily impacted, with a 400+% increase in their Hispanic/Latino population. While the Bureau of Citizenship and Immigration Services (BCIS), reports the number of undocumented immigrants in the state of Indiana at 45,000, ICHLA estimates that these numbers are much higher.

Indiana’s strong economy, high demand for laborers, readily available housing and inviting family environment attract Hispanic/Latino newcomers who in turn make significant economical and cultural contributions to Indiana. In recent years, Indiana has experienced rapid growth in Hispanic/Latino owned businesses, media, and leadership. Furthermore, the Hispanic/Latino labor force in Indiana has provided considerable support to the economic development of the state, by filling thousands of jobs that otherwise would have risked relocation.

Significant portions of both documented and undocumented Hispanics/Latinos in Indiana communities face considerable barriers in meeting daily necessities and in obtaining health care, education, language, childcare etc. If Indiana fails to find a viable solution to the driver's license issue, many Indiana Hispanics/Latinos will find themselves faced with yet another barrier: obtaining a driver's license that would allow them to work to try and meet the daily needs of their families.

## **B. Economic Impacts of the Hispanics/Latinos & Hispanic/Latino Immigrants**

In 2003 the Immigration Policy Center (IPC) reported that, the foreign born in the United States made up 23% of production workers, 20% of service workers, and 12% of professionals. New immigrants accounted for the largest portion of all immigrant workers. IPC also reported that:

- Over the next 75 years, new legal immigrants entering the United States will provide a net benefit of approximately \$611 billion dollars in present value to America's Social Security system.
- In the 1990's 13 occupational categories collectively would lack more than 500,000 workers without recently arrived non-citizen immigrant employees.
- 11 job categories would have seen their workforce decrease by 7% during the 1990s if recently arrived non-citizens had not been available, even with re-employment of experienced natives.
- The earnings of immigrant workers rise and eventually equal or surpass those of native workers the longer the immigrants live in the United States and as they naturalize.
- Given the long-term economic success of immigrants, over-reliance on temporary worker programs may unwisely terminate the upward mobility of immigrant workers just as they begin to achieve their greatest productivity.

According to the National Immigration Forum, the common myth that implies that immigrants send all of their money back to their home countries is based on falsities and misconceptions. In addition to the consumer spending of immigrant households, immigrants and their businesses contribute \$162 billion dollars in tax revenue to federal, state, and local governments. While it is true that immigrant's remit billions of dollars a year to their home countries, this is one of the most targeted and effective forms of direct foreign investment for the United States.

“The largest wave of immigration to the United States since the early 1900s coincided with the lowest U.S. national unemployment rate and fastest economic growth. Immigrant entrepreneurs create jobs for U.S. and foreign workers. During the 1990s, half of all new workers were foreign-born, filling gaps left by native-born workers in both the high-and low-skill ends of the spectrum. Immigrants fill jobs in key sectors, start their own businesses, and contribute to a thriving



economy. The net benefit of immigration to the United States is nearly \$10 billion dollars annually. As Alan Greenspan reported that 70% of immigrants arrive in the U. S. at prime working age and therefore the United States has no monetary investment in their education, yet they are transplanted into our workforce and will contribute \$500 billion dollars toward our Social Security system over the next 20 years.” (National Immigration Forum, June 2003).

The Hispanic/Latino communities also contribute economically to the state of Indiana through extensive purchasing of goods and services. According to a recent report titled, “*The Multicultural Economy 2005: America’s Minority Buying Power*,” the Selig Center for Economic Growth of the University of Georgia reported that the current buying power of Hispanics/Latinos in Indiana in 2005 was **\$ 4,866,103,000.00**.

This figure is attributed in part to the increased growth of the state’s Hispanic/Latino population combined with recent increases in the number of Hispanic/Latino owned businesses. A study conducted by the U.S. Department of Commerce found that nationally Hispanic/Latino owned businesses grew four times faster than the number of all U.S. firms. It was also reported that Indiana’s labor force had seen a surge of the relatively young Hispanic/Latino persons entering the workforce for the first time.

### **C. Bureau of Motor Vehicle Policy on the Indiana Driver’s License**

In reaction to the September 11, 2001 terrorist attacks on the United States, Indiana’s Counter Terrorism and Security Task Force (CTASC) recommended that the State’s previous six-point system be changed to close the loophole enabling non-residents to obtain a driver’s license while simultaneously advising that the BMV adopt a legal presence requirement. The BMV accepted those recommendations, establishing a four-document requirement that satisfied both demands (See Appendix A). The restrictive policies have affected both the documented and undocumented workers. Undocumented immigrants have been rendered ineligible for the driver’s license while legal, documented immigrants face greater difficulties in their efforts to obtain the driver’s license and are often mistakenly denied a driver’s license. The requirement that all foreign documents be processed centrally causes long delays in issuance of the driver’s license. BMV employees’ lack of awareness with policy regarding non- U.S. citizen Hoosiers and their unfamiliarity with BCIS documents results in the lack of uniformity in issuance of the driver’s license. For the legal resident, the legal presence requirement precludes individuals unable to provide BCIS documents from meeting BMV requirements.

## **III. CURRENT CHALLENGES**

### **A. Federal and Legislative Updates**

In 2003, the National Commission on Terrorist Attacks upon the United States recommended setting standards for the issuance of birth certificates and driver’s license. In response, Congress passed driver’s license legislation in the form of the “Intelligence Reform and Terrorism Prevention Act of 2004.”



This Act required the federal government to set federal driver's license standards that included:

- Identity documentation
- Processing standards to prevent fraud
- Standards for driver's license information
- Security standards for resistance to tampering, alteration, or counterfeiting

The negotiated rulemaking process for setting these standards is designed to include state officials so that the states maintain the power to set eligibility standards, while recognizing the need to prevent against identity theft and fraud.

### **1. The REAL ID Act**

In 2004, President Bush signed into law the Intelligence Reform and Terrorism Prevention Act of 2004. Then on May 11, 2005, President Bush signed into law the "REAL ID Act of 2005." Title II of the REAL ID Act directly conflicts with the 2004 Intelligence Reform and Terrorism Prevention Act by mandating prescriptive federal driver's license standards.

The REAL ID Act outlines standards regarding issuance, documentation verification and immigration requirement standards that the states must follow when issuing a driver's license. The Act also details that, in any case in which a state issues a driver's license/identification that does not satisfy the federal requirements in the REAL ID Act, a state shall ensure that the driver's license/identification: (A) clearly states on its face that it may not be accepted for federal identification or any other official purpose that involves federal entities, and (B) uses a unique design or color indicator to alert federal agencies or other law enforcement personnel that it may not be accepted for any such purpose. The REAL ID Act does not provide any further information on documentation requirements that states must require when issuing driver's licenses or identification documents that do not satisfy the federal requirements in the REAL ID Act.

### **2. Indiana's Policy on the Matricula Consular**

In 2005, the Office of the Governor reaffirmed the State's policy of the executive department of state government by recognizing the Mexican "matricula consular" (The Mexican Matricula Consular Identification (ID) card is an ID card issued to Mexican foreign nationals in the United States. The matricula consular is useful in the United States for the undocumented, because documented immigrants by definition have legal U.S. government-issued documents.) as a form of identity verification for Mexican nationals living in Indiana. Former Governor O'Bannon originally established this policy in July 2003.

Currently, the BMV accepts the matricula consular as a secondary source of identification in issuing a driver's license, while the Indiana State Police recognizes it as proof of identity for law enforcement purposes. However, the acceptance of the matricula consular is in direct conflict with the REAL ID Act, which states that the minimum driver's license/identification standards shall not accept any foreign document other than an official passport.

## **B. Public Safety and Community Concerns**

### **1. Opponents**

Those opposed to issuing undocumented immigrants a driver's document argue that restricting access only enhances national security and restricts and controls illegal behavior. In addition, opponents argue that denying the privilege of driving minimizes identify theft and illegal immigration while preserving jobs and privileges for U.S. citizens. Early government reports of the terrorist attacks described driver's licenses as tools used in planning terrorist attacks, implying that the terrorists relied on U.S. driver's licenses to assimilate into society and logistically coordinate the attacks. These presumptions fueled the country's perception of undocumented immigrants as potential terrorists, resulting in legislation denying the driver's licenses to the undocumented individual. Opponents feel that undocumented immigration is connected to the threat of terrorism, and the legal presence requirement for the driver's license is seen as a key state-level deterrent that functions to protect U.S. citizens from breaches of national security.

### **2. Proponents**

In contrast, proponents emphasize the contributions undocumented immigrants have made to the state of Indiana, through activities like paying taxes, purchasing homes, opening bank accounts and raising families. Proponents argue that the issuance of a driver's license is no more of an acceptance of illegal immigration in the United States than that of an employers' willingness to provide jobs to the undocumented, and the Federal government's issuance of the Individual Tax Identification Number (ITIN) to the undocumented so that they are able to pay taxes. Proponents also stress that overly restrictive policies encourage the proliferation of false documents, making driver's licenses a less reliable means of establishing identity and that the lawful presence requirement for the driver's license will not ensure public safety, since the terrorist hijackers of September 11, 2001, all possessed other valid documents as well as driver's licenses that provided for their entrance into the U.S.

## **C. Subcommittee Input**

### **1. Insurance Industry**

In a recent interview, a representative of the Insurance Institute informed the subcommittee that the Insurance Institute is supportive of this initiative. However, the Institute will not lend their support to any report until legislation has been written.

### **2. Bureau of Motor Vehicles (Titles and Registration)**

According to the BMV, from January, 2004 to December, 2005, the BMV has issued "stop processing" instructions on 1,570 Title applications for failure of an individual to supply adequate social security number verification in a Title application. The BMV has also suspended, on average, 5 to 10 registrations per month because it has been unable to process the registrations due to the individual's failure to supply adequate Social Security number verification.

### **3. Regional Impacts**

Interviews were conducted with community and local government representatives from the city of Elkhart, Cass County and the city of Indianapolis. Representatives were

interviewed regarding local issues that could potentially affect their area if local immigrants are unable or delayed in obtaining an Indiana driver's license.

Representatives were concerned with how the lack of a driver's license would affect area businesses, public safety and local economy. Cass County representatives expressed concern regarding their already weakened economy. They felt that by increasing the number of individuals in the area who could not obtain a driver's license combined with the already low wages throughout the county that contributions to the counties tax base would continue to decrease and therefore influence the overall economic wealth of the area.

An Elkhart city representative testified that many of the local immigrant workers that do not currently hold a driver's licenses also have poor work attendance, thus causing employers continual work scheduling inefficiencies and conflicts. Many times employers attempt to cover vacant positions but run the safety risk of placing untrained employees as replacements, causing serious productivity issues for the employer. The individuals interviewed also expressed that a driver's document would provide more stability and security for not only the immigrant worker, but also for the employers and Indiana citizens as a whole. ICHLA has received similar testimony from rural and urban communities and various public forums that were held in Grant, LaPorte, Lake, Marion, and Tippecanoe County's, etc.

The availability of a driving document to an immigrant would insure that he/she had been educated about traffic laws and rules and would require the individual to purchase liability insurance before being issued a driving document. This policy would lower the rate of uninsured motorists in the state of Indiana, lower the risk of unlicensed drivers and keep insurance rates affordable for all Indiana citizens.

#### **IV. TENNESSEE AND UTAH DRIVER'S LICENSE SUMMARIES**

##### **A. Tennessee's Driving Certificate**

Tennessee was the first state in the country, followed by Maryland, Texas, New Mexico, Illinois, Utah and others to issue a driving document. Tennessee's driving license policy has drawn national attention from state policymakers and immigrant advocates.

In May of 2004, Tennessee Governor Phil Bredesen signed the Tennessee Driving Certificate bill into law. The "Certificate of Driving" law took effect on May 29, 2004, and made driver's licenses available only to U.S. citizens and lawful permanent residents in Tennessee. All other applicants were eligible only for a "Certificate for driving" that on its face bore the notation (in red lettering on white background): "FOR DRIVING PURPOSES ONLY. NOT VALID FOR IDENTIFICATION. Since the inception of the certificate of driving policy, Tennessee has issued more than 51,000 certificates. During the implementation of the policy, Tennessee noted many barriers and ineffective strategies and has recently made national headlines because the implementation of "the certificate law" opened a flood gate of individuals wanting to travel to Tennessee to obtain some sort of identification. According to a recent Associated Press article titled, "*Tennessee Certificates Lure Illegal Immigrants*," Knox County Sheriff, Tim Hutchison,

said that his officers recently discovered that 58 undocumented immigrants used the same Knoxville address to obtain certificates.

### **1. Oversights regarding the Tennessee Driving License Policy**

If Indiana is to consider the “Driving Certificate,” concerns with Tennessee’s implementation process should first be addressed. Since passage of the driving certificate law, over 16,000 Tennessee residents have obtained a driving certificate. Although these numbers may appear to indicate a smooth transition to the certificate, the reality is that implementation has been anything but smooth. The following are some of the problems that Tennessee has encountered with the driving certificate implementation process.

- *Certificate legislation did not address the issue of “citation in lieu of arrest.”* This resulted in certificate holders in Tennessee fearing the possibility of being arrested at traffic stops for not demonstrating “appropriate” Identification. The Tennessee driving certificate is “not valid for identification,” which means that law enforcement officers can in theory arrest drivers for minor traffic violations instead of issuing a ticket. This is because when a driver is ticketed he/she must show the officer valid identification in order to receive a ticket instead of or ‘in lieu” of arrest. Tennessee law enforcement agencies have expressed conflicting policies on whether the certificate can be used for identification purposes when an individual is cited; some jurisdictions officially accept the certificate as identification while other jurisdictions leave the decision up to individual officer’s discretion. The policy variation from one town/city to another and from one officer to another has created fear and confusion amongst the Hispanic/Latino communities about whether the certificate will be accepted by law enforcement.
- *The certificate is only valid for a period of one year for the undocumented then must be renewed annually instead of every five years like the regular license.* This policy resulted in long lines and delays at DMV testing centers, produced higher administrative costs and resulted in the need to hire additional DMV employees to handle the unanticipated lines and paperwork that the annual renewal policy created
- *All temporary immigrants were excluded from obtaining a regular license.* It was not necessary to make all temporary immigrants ineligible from obtaining a regular driver’s license. The exclusion of temporary immigrants created a “backlash” by many temporary immigrants, particularly H1-B visa holders. **Many foreign business executives decided NOT to move their businesses to Tennessee because they were concerned about how they would be treated if forced to drive with a driver’s certificate rather than a driver’s license.**
- *There was no funding allocated to re-train DMV employees.* Due to inefficient training of DMV employees many foreign-born applicants for a regular driver’s license have been incorrectly denied or given certificates and recently DMV employees have been found to be accepting bribes

from undocumented immigrants traveling to Tennessee from the surround states in hopes of obtaining some sort of identification.

- *Buy-in from Tennessee insurance companies was never obtained.* This oversight has led to many certificate holders being unable to obtain auto insurance. Insurance companies have increased rates due to the high – risk status of certificate holders.
- *No community outreach was initiated within the immigrant communities of Tennessee or the public in general.* This has left many immigrants unclear as to how a change to the Tennessee driver’s license law affects them when their current driver’s license expires.
- *No anti-discrimination clauses were included in legislation.* This oversight left no mechanism for an immigrant to legally challenge any perceived discrimination faced as a result of the implementation of the driving certificate. There have been no DMV trainings for employees to file civil rights complaints in regards to the driving certificate.
- *There were NO arrangements made with other states.* Certificate holders fear driving outside of the state of Tennessee. No agreements were made with other states to officially recognize the Tennessee certificate.
- *The Tennessee “driving certificate” policy also has been found to threaten highway safety and increases the number of uninsured.* Reports indicate that many immigrants are not applying for the driving certificate because they are concerned that they will face discrimination or be reported to immigration authorities. As a result, the numbers of unlicensed and uninsured driver’s on Tennessee roads have been estimated to increase.

Tennessee is facing its first Class Action lawsuit in regards to the “driving certificate.” The lawsuit challenges the constitutionality of the certificate-for-driving law, arguing that it establishes an irrefutable presumption that non-citizens are a threat to homeland security, discriminates against them solely because of their alienage or national origin, and restricts their right to travel.

Although the “driving certificate” is a viable option, Indiana should first consider revising and addressing the above referenced issues before considering the implementation of a” driving certificate” as a possible solution to the issuance of immigrant driver’s license.

### **B. Utah’s Driving Privilege Card**

Utah is currently leading the nation in its responses to the Real ID Act and its timeliness and innovation in addressing the immigrant driver’s license issues. After addressing the oversights of Tennessee’s driver’s license policy, Utah enacted a law that revokes the use of an Individual Tax Identification Number (ITIN) issued by the Internal Revenue Service to obtain a Utah Driver’s License or a State Identification Card. Those individuals using an ITIN are issued a Driving Privilege Card rather than a “Driver’s

License”. Applicants without a Social Security number are now eligible for a “Driver’s Privilege Card” that will bear on its face the following notation: “FOR DRIVING PURPOSES ONLY. NOT VALID FOR IDENTIFICATION.”

A Driver’s License issued with an ITIN will expire on the cardholders next birthday after July 1, 2005. Any person who does not have a Social Security number is eligible to obtain this card to drive. This includes those individuals who are legally present but do not have a Social Security number, such as foreign students, foreign military personnel, foreign athletes, etc. The fee for the card is the same as the costs of a regular driver’s license and all fees charged for the Driving Privilege Card will be used for administrative costs.

The Driver’s Privilege Card not only allows the individual to get car insurance, it requires it. The Driving Privilege Card may be used to identify oneself **OUTSIDE** of any governmental entity. This means financial institutions and other private institutions may accept the Driving Privilege Card as identification. You may use the Driving Privilege Card to cash checks, open bank accounts, or make purchases at stores. Governmental entity means any county, city, town, school district, public transit, district redevelopment agency, special improvement or taxing district, state department, state agency, authority commission, board, institution, state hospital, or state college.

The Utah Driving Privilege Card does not provide law enforcement officers with any new or additional authority regarding immigration. Currently, if an individual is stopped by law enforcement the officer can request a driver’s license and then determine if the individual obtained the license with an ITIN.

## **V. BENEFITS OF A DRIVER’S DOCUMENT**

### **A. State Law Enforcement**

In a recent interview conducted with the Indiana State Police, a representative informed the subcommittee that the issuance of a legal driver’s certificate or privilege card would help decrease the cost and man hours involved in arresting and processing undocumented individuals driving without a proper license. The ability to accurately process general information that is valid through the issuance of a privilege card or certificate would greatly assist officers in terms of decreasing the amount of infractions, impounding vehicles and taking those individuals either home or to work.

The Indiana State Police representative emphasized the fact that in order to have a successful driver’s certificate or privilege card, it would be necessary to have the participation of the Bureau of Motor Vehicles, the State Police and the County Prosecutors together to formulate a set of uniform guidelines and procedures in order to create efficiency and effectiveness. Without the collaboration of key stakeholders there will be confusion and the likelihood of implementing a successful program will be significantly reduced.

In addition, the representative also stated that the Indiana State Police feel that before issuing a driver’s certificate or privilege card, undocumented individuals must be



required to purchase insurance. This requirement should stabilize insurance costs to Hoosiers.

### **B. Economic Impact of Driving Certificates for Undocumented Immigrants**

In an attempt to show the economic impact of Indiana implementing a driver's document, the Sagamore Institute of Policy Research, located in Indianapolis, developed a model that gives an estimated cost- savings for Indiana.

The economic impact on Indiana of making a driver's document available to the undocumented immigrants of Indiana would primarily be felt by decreases in the number of uninsured drivers throughout the state.

#### **The Economic Model Highlights (Appendix B)**

- Total Savings equals the (undocumented with insurance times the average cost for the undocumented without insurance.)
- Two factors will be important in determining the willingness of the undocumented to obtain a driver's license if made available: trust that interfacing with the legal system will not expose them to risk of change in their status and their ability to pay for the driving document (compared to the undocumented immigrant's assessment of the chances of being caught driving without a certificate.)
- The Sagamore Institute found that it is nearly impossible to make a reliable estimate of the economic impact of changes in laws allowing undocumented immigrants to drive legally and to obtain insurance. Nevertheless, making a few reasonable assumptions can indicate the magnitude of savings to the state by making it possible for undocumented immigrants who drive to obtain insurance.
- Expected economic savings for Indiana = **\$ 16,533,000.00**
  - **NOTE \* this estimate is based solely on assumptions.** (Model attached)

## **VI. ICHLA RECOMMENDATIONS**

The ICHLA Driver's License/Immigration subcommittee recognizes that it is a violation of law to reside in the United States without proper documentation. After passing the Real ID Act, Congress did little to provide states with the resources to comply with the Act and Indiana must resolve to find solutions that will continue to protect its citizens and its borders from any possible security risk, address the needs of the Hispanic/Latino communities and insure that all Indiana drivers are insured and have been educated as to the rules of the roads.

- **Develop and implement an Indiana Driver's Document Pilot Program**  
Develop and establish a Project Task Force to research, develop, implement, and study a "Driver's Document". This project should be piloted in one rural county (Cass) and one metropolitan county (Marion) for a period of 12- 15 months. Congress has given the states until May 2008, to meet all requirements of the Real ID Act. Piloting the project for 12-15 months will allow any concerns or issues



with the project to surface, and will then allow for at least 12 months for Indiana to address any project concerns or findings before the deadline of implementing the Real ID Act has expired.

- **Pending Results of the Pilot Project -Pass Legislation to allow for the Issuance of an Indiana Driver's Document.**
- **Establish a bi-partisan task force/committee to study, address, and advise and/or promote the project findings and to follow immigrant migration patterns both in and out of Indiana.**
- **Establish support for the Driver's Document from the Insurance industry, Law Enforcement, Interstate Compact states, Indiana immigrants and the general public.**
- **Continue to provide relevant training for BMV employees.**
- **Continue to provide updated translated Spanish versions of the Indiana Driver's Manual, and other pertinent documents as the English versions are updated.**
- **Re-evaluation of the legal presence requirement restricting immigrant access to the driver's license by the BMV.** Tennessee just recently made national headlines because DMV employees were accepting bribes to issue the driving certificate to undocumented individuals who lived outside of the State of Tennessee.
- **Individuals receiving the driver's document must be driver - educated**
- **Individuals receiving the driver's document must be required to purchase insurance.**
- **Implement a renewal policy of three years.** This will reduce waiting time, administrative and agency costs, confusion, and will encourage more people to apply for the driving document.
- **Develop a "fact sheet" that will help explain to the public the impact of any changes in the law, driver's license policy changes or of any driving document policies.**
- **Follow Utah's lead by not granting any new or additional immigration authority to law enforcement.** If stopped by law enforcement the officer can require an individual to show a driver's license and then determine if the individual has obtained the driver's license with an ITIN.
- **Indiana must develop a plan of action to address the possibility of undocumented immigrants traveling to Indiana to receive a "driver's**

**document,”** Indiana must implement safeguards against issuance of the driver’s document to only those eligible Indiana residents. There must be an audit process available to insure that BMV employees are following BMV policies and guidelines to the issuance of a driver’s

## VII. CONCLUSION

The REAL ID Act stipulates that beginning three years after the REAL ID Act’s enactment (May 2008), driver’s licenses cannot be accepted by federal agencies for any “official” purposes unless they meet the requirements of the Act. The requirements do not cause any immediate change in state laws or administrative procedures. Driver’s licenses that are already issued remain valid, despite the REAL ID Act and states may choose not to have their driver’s license meet the REAL ID Act’s requirements for reasons of public safety, cost or other public policy reasons. Their residents may present alternative documents for federal official purposes.

Indiana has flexibility in implementing the REAL ID Act and should take the opportunity to thoroughly research alternatives and develop a pilot program to run for a twelve-month period, thus allotting the remaining twelve months before mandatory implementation of the REAL ID Act to modify or restructure the program.

By choosing to be proactive with the twelve month pilot program, Indiana would potentially save thousands of dollars in administrative, social and economic costs and would identify potential issues/barriers thus avoiding having to implement reactive solutions.

In order to be successful, Indiana must look at the research findings and avoid the oversights that other states have made while implementing a similar driver’s license policy.

- Indiana should only require renewal of a driving document every three year’s.
- Allow temporary immigrants with permission to work in the United States to obtain regular licenses.
- Allocate funding to re-train BMV employees.
- Obtain buy-in from insurance companies and other key stakeholders during the planning process.
- Legislate anti-discrimination clauses and work with other State agencies to initiate extensive outreach campaigns to the immigrant communities.
- Make the driving document valid identification for use with non-governmental entities and work to get the driving document recognized by other states before implementing.

Indiana can lead the way in developing solutions to the issues that surround the REAL ID Act by becoming proactive, learning from the policy decisions of states that have already implemented driver's licenses policy changes, utilizing Indiana's think tanks and researchers to develop, study, address and implement a solution that will meet the national requirements of the REAL ID Act and provide for the driving needs of Indiana's immigrant communities.

## APPENDIX A

### **INDIANA BUREAU OF MOTOR VEHICLES** **IDENTIFICATION DOCUMENTATION LIST AND INSTRUCTIONS**

For many individuals, a Driver License or Identification Card issued by the Indiana Bureau of Motor Vehicles (BMV) is the most important means of proving their identity. The Bureau of Motor Vehicles endeavors to safeguard the integrity of driver documents and to protect the public from false and/or fraudulent applications. In accordance with Indiana Code 9-24-18-2, making a false or fraudulent application is a criminal offense punishable by imprisonment, fine and license suspension.

Documents presented to the Bureau of Motor Vehicles for identification purposes will be kept confidential.

Only original documents or those certified by the issuing agency will be accepted. The BMV reserves the right to refuse any identification presented by the applicant that BMV personnel may find questionable. Altered documents will not be accepted. All documents must contain the applicant's name and each document must be in the English language or contain an English translation. For purposes herein, the term "valid" means "not expired."

#### **NEW ISSUANCES**

A new issuance of a Driver License, Permit, or ID Card requires the applicant to present:

NOTE: An applicant for an Indiana ID card is not required to present social security documentation.

- One (1) Primary Document
- One (1) Proof of Social Security number
- One (1) Secondary Document
- One (1) Proof of Indiana Residency Document
- A Primary or Secondary Document may also meet the Indiana residency requirement as long as the applicant's name and correct address are shown on the document

#### **OR**

- Two (2) Primary Documents
- One (1) Proof of Social Security number
- One (1) Proof of Indiana Residency Document

#### **RENEWALS / AMENDMENTS**

Indiana applicants who are renewing or amending an Indiana Driver License, Permit, or ID Card must surrender the License, Permit, or ID Card and verbally verify the Social Security number on the BMV record. If the License, Permit or ID Card has the correct address, no other Proof of Indiana Residency is required. If the applicant's address has

changed, one (1) Proof of Indiana Residency document must be presented. Applicants presenting a License, Permit or ID Card that has expired more than ten (10) years ago must provide documentation as if applying for a new License or Permit.

### **DUPLICATES**

Individuals whose License, Permit or ID Card have been lost or stolen and who are applying for a duplicate must present:

- One (1) Primary Document
- One (1) Secondary Document
- Verbal verification of Social Security number on the BMV record
- Proof of residency is not required unless the applicant's address has changed

**OR**

- Indiana Driver License

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**To meet the above requirements, customers must present documents from the following categories:**

### **PRIMARY DOCUMENTS (1 required)**

**United States Birth Certificate** with stamp or seal issued from:

- County Department or County Board of Health Vital Records/Statistics Division from the applicant's state of birth
- State Department or State Board of Health Vital Records/Statistics Division from the applicant's state of birth
- U.S. State Department
- United States Territories - American Samoa, Guam, Puerto Rico, and Virgin Islands (translation may be required)

**Certification of Report of Birth DS-1350**

**U.S. Consular Report of Birth FS-240**

**U.S. Certificate of Naturalization/Citizenship**

**Valid U.S. Military/Merchant Marine Photo ID**

**Valid U.S. Passport**

**Acceptable INS Documentation**

- Valid foreign passport with a Visa that includes a valid I-94 in the passport indicating the duration of stay in the U.S. (Canadian passports are not required to have a Visa when entering the U.S. and are exempt from this requirement.)
- Employment Authorization Card I-688B
- Employment Authorization Card I-766
- I-94 Stamped with "Section 207" Refugee Status
- I-94 Stamped with "Section 208" Asylum Status
- Permanent Resident Card I-551
- Temporary I-551 stamp
- Temporary Resident Card I-688
- Re-Entry Permit I-327
- Refugee Travel Document I-571
- Other INS documentation subject to BMV Driver Services approval

**NOTE: Out of Country Licenses are no longer accepted as identification or proof of driving experience.**

**An applicant submitting VALID INS documentation who does not already have a valid License from another U.S. State or U.S. Territory must start with an Indiana Learner Permit. The applicant must hold the permit for a period of at least sixty (60) days before being eligible to apply for an Indiana Driver License.**

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### **SECONDARY DOCUMENTS (1 required)**

**In addition, any document from the list of Primary documentation may be used as a Secondary document.**

- Bank Statement
- Certified Academic Transcript
- Confirmation of Registration Letter from an Educational Institution
- Court documentation with stamp or seal in applicant's name
- Foreign Consulate-Issued ID Card
- Government-Issued License or ID Card
- Hoosier RX Plan Card w/imprinted name
- Hoosier Works Card w/imprinted name
- Indiana County Pre-sentence Investigation Report with clerk stamp or seal
- Indiana Gun Permit (Valid)
- Indiana Probation Photo ID Card
- Indiana Professional/Occupational license (Valid)
- Indiana BMV Title Application w/BMV Valid Stamp
- Indiana BMV Title or Registration (Valid)
- Insurance Card, Medicare or Medicaid card
- Letter from Probation Officer or county caseworker on letterhead stationary, certified with court or county stamp or seal with the applicant's name, and signature of the probation officer

- Major Credit or Bank Card (MC, VISA, AE, and Discover ONLY) (Valid)
- Original Out-of-State Driver Record
- Out-of-State Driver License, Identification Card or Permit with photograph
- Pay Check Stub - Computer generated
- Prison Release Documentation/Photo ID
- School Report Card (dated within 12 mos.)
- School Photo ID Card
- Selective Service Acknowledgement Card-SSS Form 3A
- U.S. Divorce Decree certified by court of law with stamp or seal
- U.S. Application of Marriage/Record of Marriage (Certified copy.) Must contain the stamped seal and be signed by the Clerk.
- U.S. District Court Pre-sentence Investigation Report with clerk stamp or seal
- U.S. Military Discharge or DD214 Separation papers
- U.S. Veterans Universal Access ID card with photo
- W-2 Form (Federal or State) or 1099 Federal tax form

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**PROOF OF INDIANA RESIDENCY (1 required)**

**For all NEW issuances and Changes of Address**

**Any document from the list of Primary Documents or Secondary Documentation may be used as proof of Indiana residency as long as the document contains the applicant's name and residential address.**

**For the purposes of this policy, a Post Office Box is not an acceptable residential address.**

- Child Support Check from FSSA with name and address of the applicant attached
- Change of Address Confirmation form (CNL107) from U.S. Postal Service listing old and new address
- CURRENT Bill or Benefit Statement (within 60 days of issuance)
- Indiana Driver License, Identification Card or Permit with photograph
- Indiana Property Deed or Tax Assessment
- Indiana Surveyor Report
- Indiana Residency Affidavit
- Voter Registration Card

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**SOCIAL SECURITY NUMBER (1 required)**

**Required by Indiana State and Federal law for all License and Permit transactions**

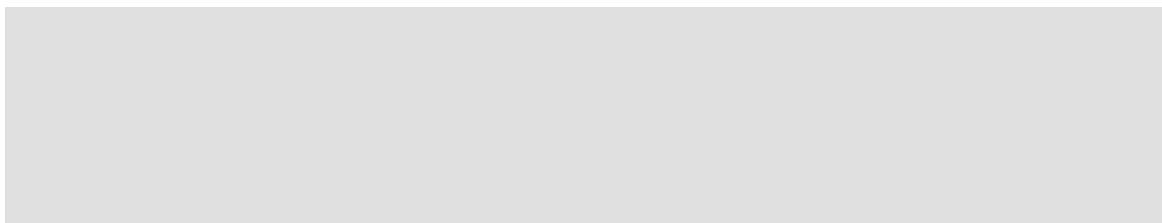
For issuance of a new Driver License or Permit, the applicant **MUST** provide proof of his/her Social Security Number. If the applicant is already listed on the BMV driver file, only verbal verification is required.



Metal or plastic "replicas" of a Social Security Card are not accepted.

Social Security Number verification:

- Social Security Card
- NUMI Report - stamped and issued from the Social Security Administration (SSA) office in Baltimore, Maryland.
- Verification of Social Security Number Letter signed and stamped from an INDIANA SSA District Office.
- Valid U.S. Military ID card.



## APPENDIX B

### Economic Model in its Entirety

Expressed in formal terms:

$$\text{Sav}_{\text{Ind}} = \text{GI} * \text{Cost}_{\text{Uninsur}}$$

where  $\text{Sav}_{\text{Ind}}$  is the total economic savings to the state;  $\text{GI}$  is the total number of undocumented immigrants who get insurance under new laws who are now unable to get insurance; and  $\text{Cost}_{\text{Uninsur}}$  is the average cost for each Undocumented Immigrant who drives without insurance.

The most recent estimate by the Bureau of Citizenship and Immigration Services (BCIS) of Undocumented Immigrants (**UI**) in Indiana is about 45,000 (every analyst believes the real figure to be much higher). Not all of these individuals drive, some of them are children, some lack access to an automobile, some simply have no need to drive. Some may not drive because they lack a legal driver's license and insurance. These and other factors determine  $x$ , the percentage of Undocumented Immigrants who do in fact drive.

The total number of Undocumented Immigrants who drive (**UID**) contribute a significant social cost to the economy of Indiana: like all uninsured drivers they raise the premiums of the insured; they contribute to higher deductibles when they are involved in accidents; and studies indicate they more likely to hit-and-run, leaving the scene of accidents to avoid prosecution for driving with a license or insurance. Anecdotal reports indicate that undocumented immigrants are even more likely to leave the scenes of accidents since they fear eventual deportation as well as arrest. Some subset (**GDC**) of Undocumented Immigrants now driving will get a Driver's Certificate if it is possible.

Of course even if the law is changed to allow undocumented immigrants to obtain Driver's Certificates, not all of those who are now driving without a license will do so, just as not all those who now can get a driver's license actually get one.

The percentage of undocumented immigrants who will in fact get a driver's certificate if it is possible ( $y$ ) depends, first, on their ability to pass the required test. This in turn depends on driving skills; language abilities, which could determine whether they pass the written test; possession of required documentation, including proof of residence in the state; and being old enough. Second, the percentage of undocumented immigrants now driving without a license who will obtain a driver's certificate when the law is changed will depend on their willingness to apply for the certificate. Two factors will be important for determining this willingness: trust that interfacing with the legal system in this respect will not expose them to the risk of change in their status and possibly being forced to leave the country; and ability to pay for the certificate (compared to the undocumented immigrant's assessment of the chances of being caught driving without a certificate).

Some smaller subset of those undocumented immigrants who obtain a driver's certificate (**GDC**) will go on to get insurance (**GI**). The percentage of those who do so ( $z$ ) will depend on whether insurance companies make policies available: companies that require proof of lawful employment, for instance, would decrease **GI**. The percentage  $z$  will also

depend on whether those undocumented immigrants who do acquire a driving certificate go on to get insurance: like many current drivers who possess a license but are uninsured, undocumented immigrants may find it too costly. Add to these factor possible language difficulties that could lead to a lack of understanding about what insurance is required and how it can be obtained.

<b>UI</b>	=	Undocumented Immigrants	=	<b>45,000</b>
<b>UID</b>	=	Undocumented Immigrants who drive	=	<b>UI*x</b>
<b>GDC</b>	=	Undocumented Immigrants who get Driver's Certificates if allowed to under new laws	=	<b>UID*y</b>
<b>GI</b>	=	Undocumented Immigrants who get insurance under changed laws allowing them to get a Driver's Certificate	=	<b>GDC*z</b>
<b>x</b>	=	% of Undocumented Immigrants who drive; influenced by <ul style="list-style-type: none"> <li>• Access to car</li> <li>• Age</li> <li>• Intensity of need to drive</li> </ul>		
<b>y</b>	=	% of Undocumented Immigrants who drive and who are able and willing to get a Driver's Certificate under changed laws; influenced by <ul style="list-style-type: none"> <li>• Ability to pass test, which is influenced by <ul style="list-style-type: none"> <li>• Driving skills</li> <li>• Language abilities (especially on written portion)</li> <li>• Documentation</li> <li>• Residence in Indiana</li> <li>• Age</li> </ul> </li> <li>• Willingness to apply for Driving Certificate, which is influenced by <ul style="list-style-type: none"> <li>• Trust that application will not negatively impact other aspects of life</li> <li>• Cost of Driving Certificate (discounted against assessment of probability of getting caught without Driving Certificate)</li> </ul> </li> </ul>		
<b>z</b>	=	% of Undocumented Immigrants who get a Driver's Certificate under changed laws and who are able and willing to get motorist insurance; influenced by: <ul style="list-style-type: none"> <li>• Ability to obtain insurance, which is influenced by <ul style="list-style-type: none"> <li>• Willingness of insurance companies to insure undocumented immigrants who possess a valid Driver's Certificate</li> <li>• Possibly proof of residence and employment</li> </ul> </li> <li>• Willingness of the Undocumented Immigrant to get insurance, which is influenced by <ul style="list-style-type: none"> <li>• Affordability of insurance</li> <li>• Understanding the need for insurance and how to obtain it</li> </ul> </li> </ul>		
<b>Cost<sub>Uninsur</sub></b>	=	Cost to society of each Undocumented Immigrant driving without insurance		
<b>Sav<sub>IND</sub></b>	=	Total saving to Indiana from making Drivers Certificate available to Undocumented Immigrants	=	<b>GI*Cost<sub>Uninsur</sub></b>

Some people fear that the Indiana economy will be hurt by a flight of undocumented immigrants to states such as Tennessee that do allow them to get driver's certificates. Anecdotal evidence appears to indicate this is unlikely. The important factors determining place of residence for undocumented are ability to find jobs and social networks; even when denial of legal driving status seems to signify a broader lack of tolerance for illegal immigrants as in California or Arizona recently, there seems to be little flight to states that allow driver's licenses or certificates.

At this time, it is nearly impossible to make a reliable estimate of the economic impact of changes in laws allowing undocumented immigrants to drive legally and to obtain insurance. Nevertheless, making a few reasonable assumptions can indicate the magnitude of savings to the state by making it possible for undocumented immigrants who drive to obtain insurance

<b>UI</b> =	45,000
<b>x</b> =	83.5% (the percentage in 2004 of legal resident of Indiana who have driver's licenses)
<b>y</b> =	25% (estimate of percentage of undocumented immigrants driving in Tennessee who have taken advantage of state's driver's certificate)
<b>z</b> =	88% (percentage of legal drivers in Indiana who have proper insurance)
<b>Cost<sub>Uninsur</sub></b>	\$2,000 (slightly less than the estimated cost to society in California of each uninsured driver)
<b>UID</b> =	37,575 undocumented immigrants driving in Indiana
<b>GDC</b> =	9,394 undocumented immigrants who would obtain a driving certificate under rule similar to Tennessee's
<b>GI</b> =	8,267 undocumented immigrants who would be expected to acquire insurance if they behave similarly to Indiana drivers with licenses
<b>Sav<sub>IND</sub></b> =	<b>\$16,533,000 Expected economic savings for Indiana</b>