

# **OBTAINING A LAWFUL DRIVER'S LICENSE IN THE UNITED STATES**



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# CHAPTER 1: WHICH IMMIGRANTS CAN LEGALLY DRIVE

Whether or not you can drive depends on what immigration status you currently have and which state you live in.

## **IMMIGRATION STATUS**

First, if you are a lawful permanent resident (a Green Card holder) of the United States, you can drive in ANY state as long as you have a driver's license – just like US Citizens.

However, there are many immigrants who hold statuses other than lawful permanent residency. These other statuses often have fewer rights associated with them. Depending on the state and which status you have, you may or may not have an option to lawfully drive.

If you have a valid visa (depending on the visa category) or a valid work authorization document, you typically can obtain a driver's license in any state.

For undocumented immigrants, there are much fewer options. There are currently only 12 states that allow undocumented immigrants to obtain driver's licenses.

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## **CHAPTER 2: WHAT IS A REAL ID DRIVERS LICENSE AND HOW DO I GET ONE?**

Real ID Driver's Licenses are now in effect. The Real ID is a Federal Law that was passed to reduce identity theft and fraud and to put more strenuous documentation requirements to prove a person's identity before getting a Federally Compliant Driver's License and ID Card.

After October 1, 2020, a Real ID Driver's License will be required to:

- Use as Identification to board a plane
- Drive in all states
- Enter military bases and federal facilities.

To apply for a Real ID Driver's License, you will need to go through a process.

First, you'll need to fill out an application online. Second, you'll need to gather various documents, and third, you'll need to attend an appointment at your local DMV.

## **STEP ONE: THE APPLICATION**

Your online application process will depend on your state.

For example, in the state of California, you can go to this website to begin the process: <https://realid.dmv.ca.gov/>

Once there, you'll need to create an account (this is through a company called ID.me), and you'll need to create a two-factor identification with a password (for example, a cell phone and an email address) to confirm your identity.

Important to note, when you create your online account, you can become an organ or tissue donor, and you can register to vote! Be CAREFUL here!!!

If you are an immigrant, there is no problem with becoming an organ or tissue donor at all - go right ahead, but there is a HUGE problem with registering to vote! Do NOT do it!

It can jeopardize your immigration status!

## STEP 2: YOUR DOCUMENTS

Once you have completed the online application, pay attention to the list of documents that are required. You will need four types of documents:

An Identity Document that is valid, unexpired, and includes your full name (first, middle and last) and your date of birth. Some examples of this may include:

- Valid, unexpired Permanent Resident Card
- Valid, unexpired Employment Authorization Document (EAD) Card (I-766) or valid/expired EAD Card with Notice of Action (I-797 C)
- Valid/expired Permanent Resident Card with Notice of Action (I-797 C) or Approval Notice (I-797)
  - Unexpired foreign passport “Processed for I-551” stamped
- Documents reflecting TPS benefit eligibility.

Your full name on your Identity Document must be your current, true full legal name. If not, you'll need to provide an original or certified document showing the legal change of your name. Name change documents can include:

- Adoption documents that contain the legal name as a result of the adoption
  - A name change document that contains the legal name both before and after the name change
  - Marriage certificate
    - A certificate, declaration, or registration document verifying the formation of a domestic partnership
  - Dissolution of marriage/domestic partnership document that contains the legal name as a result of the court action.
3. Proof of full Social Security Number.
- Social security card
- W-2 form
  - Social Security Administration (SSA) 1099 form
  - Non-SSA-1099 form
  - Pay stub with full SSN



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4. Two Proofs of Residency in the State of California. These documents must show your first and last name and the same mailing address listed on your Driver's License or ID card! Common examples of these include:

- Rental or lease agreement with the signature of the owner/landlord tenant/resident
- Deed or title to residential real property
- Mortgage bill
- Home utility bill (including cellular phone)
- School documents issued by a public or private primary, secondary, post-secondary institution, or college, or university that includes the applicant's date of birth.
- Medical documents
- Employment documents
- Insurance documents, including medical, dental, vision, life, home, rental or vehicle
- Tax return - either Internal Revenue Service (IRS) or California Franchise Tax Board (FTB)
- Change of Address confirmation by the U.S. Postal Service
- Property tax bill or statement
- Faith-based document that includes the name and address of organization
- Bank records from any state or national bank

- Court documents that list the applicant as a resident of California

- Letter attesting that the applicant resides in California from a homeless shelter, shelter for abused women, non-profit entity, faith-based organization, employer or government agency within the United States

- A document issued by a U.S. government agency

### **STEP 3: YOUR APPOINTMENT**

Once you have gathered your documents, you will need to attend your scheduled appointment at the DMV. Take your documents with you, and let the DMV know if you need to take or to schedule a driving test (e.g. if this is your first time applying for a driver's license). Once your application and documents are reviewed, you should be issued your new Real ID driver's license.

If your application is denied, you should carefully read the explanation for the denial. Sometimes, applications will be denied, and you will need to submit further documentation, but the request is still approvable. Other times, you may not be eligible for a Real ID Driver's License at all, and you may need to explore other options.

Once approved, the California Real ID Driver's License will have a bear and a star in the top right corner. See image above. This signifies that you are eligible to fly domestically, to enter federal buildings, and to drive in other states.

### CHAPTER 3. FEDERALLY NON-COMPLIANT DRIVER'S LICENSES (AB-60)

If Real ID is not an option for you, you will not be able to use your driver's license as an ID to board an airplane, to enter federal buildings or military locations, or to drive in other states. However, you may still be able to obtain a "Federally Non-Compliant Driver's License." These licenses look the same, except they say the words "Federal Limits Apply" on the top right corner.



Most states do not issue Federally Non-Compliant Driver's Licenses. However, California, Washington, D.C. and 11 other states do. In California, we refer to these as "AB-60 Driver's Licenses" since it was Assembly Bill 60 that passed these into state law in 2013.5

To be approved for an AB-60 Driver's License, you must provide both proof of your identity and proof of California residency. However, you do NOT need to provide a Social Security number nor proof of valid immigration status.

### STEP 1: PROOF OF IDENTITY FOR AB-60.

For AB-60, your Proof of Identity can include a foreign document, such as a valid Mexican Federal Electoral Card, a Mexican Matricula Consular, or a foreign passport. The DMV publishes a list of countries' passports that it accepts on the its website.

If you have no formal ID document, provide as many of the following documents as possible to the DMV to be reviewed to verify your identity:

- Immigration Form I-589, (Application for Asylum and for Withholding of Removal)
- Immigration Form I-20 (Certificate of Eligibility for Nonimmigrant (F-1) Student Status – For Academic and Language Students or Certificate of Eligibility for Nonimmigrant (M-1) Student Status – For Vocational Students)

- Immigration Form DS-2019 (Certificate of Eligibility for Exchange Visitor (J-1) Status)
- Court documents where the applicant is named as a party to the court proceeding
- Income tax returns
- Driver's license
- Documents pertaining to civil marital status or civil unity, including marriage licenses or domestic partner registrations
- Divorce decrees
- Foreign passport, consular identification card, foreign national identification card, or a foreign driver's license
- Identification cards that contain a photograph of the applicant issued by a government within the U.S. or the U.S. government
- Birth documents including a birth certificate or adoption records
- Any of the above documents that list the applicant's spouse, domestic partner, child, parent, or legal guardian provided the applicant also provides a birth certificate, adoption records, marriage license,

or domestic partner registration to trace the relationship

- Note that for any of these documents, if the language on the document is in a language other than English, you must include a certified English translation of that document.

Information and resources about the AB-60 Driver's License are also available at your local DMV office or online at [www.dmv.ca.gov](http://www.dmv.ca.gov).

## **STEP 2: PROVING CALIFORNIA RESIDENCY FOR AB-60 DRIVER'S LICENSE.**

In addition to proving your identity, you will need to prove that you reside in the State of California. To do that, the DMV requires at least one of the following documents:

- Rental or lease agreements with the signatures of the owner/landlord and the tenant/resident
- Deeds or titles to residential real property
- Mortgage bills
- Home utility bills (including cellular phone bills)
- School documents
- Medical documents
- Employment documents
- Faith based documents
- Insurance documents, including medical, dental, vision, life, home, rental, and vehicle

- Internal Revenue Service or California Franchise Tax Board tax returns
- California Certificates of Vehicle or Vessel Titles or registrations
- California driver's licenses or identification cards
- Change of Address confirmations by the U.S. Postal Service
- Documents issued by a government within the U.S. or the U.S. government
- A property tax bill or statement
- Records of a financial institution
- Court documents that list the applicant as a resident of California

A letter, on letterhead from a homeless shelter, a shelter for abused women, a nonprofit entity, a faith-based organization, an employer, or a government within the U.S. attesting that the

applicant resides in California

- A parent, legal guardian, or child may use a birth certificate and a spouse or domestic partner may use a marriage license or domestic partner registration certificate to trace his or her relationship to the individual to whom one of the above residency documents has been addressed

When possible, these documents should have your present mailing address on them.

Once you have the appropriate documents, you will need to pass the driver's exam, fill out the application, and pay the fee at the DMV. AB-60 applications tend to take longer than regular drivers licenses, so be prepared for delays and be patient through the process.

## **CHAPTER 4: WHAT ARE THE RISKS OF APPLYING FOR A DRIVER'S LICENSE?**

There are instances when applying for any type of driver's license can be RISKY! We advise you to speak with an immigration attorney BEFORE applying for any driver's license if you are in any of the following situations:

- You have been deported or ordered removed in the past
- You have a criminal record
- You previously applied for a driver's license using false information<sup>7</sup>

Even though the DMV does NOT share this information with ICE, ICE can still access DMV databases! Therefore, if ICE is already looking for you, you are at great risk of being found and placed into deportation proceedings. Even if you have only one DUI in the past, if you are undocumented, it would be risky for you to apply for an AB-60 driver's license.



## CHAPTER 5: WHAT ELSE SHOULD I KNOW?

As long as you are not in one of the risky situations mentioned in Chapter 4 above, we recommend using a driver's license if you are driving! Remember, it is a crime to be caught driving without a license.

Please note that AB-60 Driver's Licenses do not cause problems for your immigration status, do not put at risk any future or present immigration filing, and cannot be a reason to discriminate against you in any way (aside from not allowing you to board a plane, enter a federal facility, or drive in another state).

A note about Commercial Driver's Licenses: If you want to have a Commercial Driver's License, AB-60 will not work. You need to have a federally issued, unexpired Legal. Presence document (like a Green Card or an EAD) and valid proof of Social Security.

## CHAPTER 6: A NOTE FROM THE AUTHOR

My name is Otis Landerholm, and I am the founding attorney of Landerholm Immigration, APC. I am honored to be an immigration lawyer! I love immigrants, and I love empowering immigrants to live their best life possible.

I lived in five different countries before becoming a lawyer, and I know that it is NOT easy to be in a place other than your home country! As an immigrant, you often face an unfair legal system, discrimination at work, challenges obtaining medical assistance, and challenges accessing financial, banking, educational and other systems in the United States.

*Otis Landerholm*





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