

Background & Frequently Asked Questions about

Access to Driver's Licenses and Non-Driver ID for undocumented VT Residents

"Now I feel like a prisoner. With a license I wouldn't because I could come and go as I need." -VT dairy worker

www.migrantjustice.net



Background

In January 2012 Senator White introduced a bill to establish a 'Vermont Guest Worker Program'. However, the Senate Agricultural Committee quickly established that the State of Vermont has no legal authority to create Guest Worker Programs. After taking extensive testimony from farmworkers, farmers, the VT Farm Bureau, State Police, the Department of Motor Vehicles, UVM Extension, legal experts, health experts, and considering results from the "Vermont Poll" and various academic studies, the Senate Agricultural Committee—with enthusiastic support from the farmworker and farmer communities—transformed Senator White's "S-238" to address fundamental human needs and rights within the power of the State of Vermont to address: **"The general assembly finds that migrant workers in Vermont face significant challenges based on their current inability to apply for Vermont driver's licenses and non-driver identification cards, including the inability to travel and access services, medical care, and purchase basic necessities, to officially identify themselves or be identified, and to fulfill typical responsibilities of their employment that require them to legally drive."** –S-238

The committee found that there were no conflicts with federal law, including the REAL ID Act.¹ The bill was passed unanimously and sent over to Senate transportation, which chose to send the bill to the Senate floor as a study committee. The study committee passed the Senate with unanimous support and the House with near-unanimous support.

In 2011-2012, 100 migrant dairy workers in 5 different counties were surveyed.² Findings include:

- When asked what would make life better in Vermont the #1 choice was access to a Vermont driver's license
- The top 3 things that migrant workers find most difficult about their lives in Vermont are: 1) Not being able to get off the farm; 2) Lack of transportation; and 3) Lack of freedom
- Nearly 15% of workers say that their employer does not allow them to leave the farm

Why Driver's Licenses?

1) Human Rights. Access to a driver's license/ID for ALL upholds the human right to freedom of movement and the right to be recognized as a human being before the law. Specifically, a license/ID improves access to health care, food, and increases power/mobility to leave abusive situations;

2) Public Safety. Police can identify and verify license/ID holders' when needed, and license/ID holders feel more comfortable contacting police, especially as crime victims or witnesses. This makes all communities safer. Access to licenses for all decreases incidents of driving without licenses and insurance, improving road safety for all.

3) Healthy Farms and Communities. Independent and mobile workers, who aren't forced to rely on employers to meet fundamental human needs like access to food and health care, is a win-win for employees and employers.

Is it legal for the State of VT to provide access to driver's licenses to undocumented residents?

YES. There are no state or federal laws, including the REAL ID ACT, that prohibit Vermont from providing access to driver's licenses/ID to undocumented residents. Three states (New Mexico, Washington, and Utah) currently do so.³

Can VT just create a VISA or Guest Worker program for dairy workers?

NO. Only the federal government can enact immigration reform and create guest worker programs. However, the state of VT does have the legal power and authority to create access to driver's licenses/ID for undocumented Vermont residents.

If VT wants to comply with the REAL ID ACT, isn't it prohibited from creating access to standard driver's licenses/ID to undocumented residents?

NO. According to the REAL ID ACT, VT can issue both REAL ID compliant licenses/ID and standard licenses/ID that are not REAL ID compliant.¹ The standard VT license/ID will no longer be valid for federal purposes (e.g. domestic flights) once VT is certified as Real ID compliant. Every state's REAL ID compliant licenses/ID will have to be easily distinguished from standard licenses/ID that are not Real ID compliant (e.g. with a gold star⁴). Washington was the first state to be certified as REAL ID compliant. They continue to have access to standard licenses/ID for undocumented WA residents and **all those WA residents who do not want a REAL ID compliant license/ID.**



"We spent 3 days without enough food and were very hungry, waiting for our boss to take us...If we had our licenses we could have gone to buy our own food".-David Santiago y Efrén Bautista

"I was kicked by a cow and waited for 24 hours in pain with deeply bruised ribs, a hurt wrist and ankle until my employer

was able to help me access medical services. With a license, I or my co-workers would have been able to drive and I wouldn't have feared calling 911."-Danilo Lopez

Can't undocumented residents just use foreign or international licenses?

NO. The State of Vermont currently requires that holders of foreign or international licenses prove legal authorized status to the VT DMV in order to take a VT road test and obtain a VT issued license.⁵ The majority of undocumented residents in VT do not have foreign or international licenses because driving is not a primary or accessible means of transportation in their home countries.. Undocumented VT residents, many of whom have learned to operate farm vehicles in Vermont, would need to take the standard road test to learn how to drive in VT just like any other new license applicant.

Would undocumented VT residents with VT licenses/ID be able to vote? Would their

possession of a license/ID interfere with voting registries?

NO. All Vermont voters are required, by U.S. law, to prove that they are U.S. citizens in order to vote.⁶ Just like other non-citizen residents, undocumented VT residents would not be able to vote. Currently the voter registration list is automatically cross-checked with the DMV database (via computer program) on a nightly basis to confirm basic voting information, which includes checking the last 4 digits of social security numbers. This system to determine voter eligibility would be easily applicable to undocumented VT residents.

Would Vermont banks and financial institutions be legally compromised if this new licensing framework were put in place?

NO. There are absolutely no laws, including the U.S. Patriotic Act, that prevent banks from accepting money from undocumented people. In fact, some of the largest banks in VT already allow undocumented VT residents to open bank accounts with a Mexican Consulate issued Matricula ID Card. Banks and financial institutions across the country, aware that money transfers across borders represent one of the largest economic engines in the world, have opened their doors to undocumented residents.

"Common everyday activities that we take for granted such as shopping, banking, seeking medical advice or just socializing...are not readily available to the migrant farm workers, especially the closer to the Canadian border they live...I am here to show, not only our employees, but all the other migrant farm workers in Vermont that they deserve to be recognized for their contribution to the agricultural in Vermont." -Phylliss Bowdish, Dairy Farmer, Weybridge

Will VT lose federal funding or transportation dollars?

NO. Vermont will not lose any federal funding for passing this license/ID program because Vermont can extend access to licenses to undocumented residents and be in full compliance with all federal laws and regulations. Washington State, New Mexico and Utah have not lost any federal funding for their licensing frameworks that allow licenses to undocumented residents of their states.

¹ See Conn. Office of Legal Research, OLR Background: Real ID Implementation in Connecticut, <http://www.cga.ct.gov/2011/rpt/2011-R-0103.htm>; ² Migrant Justice Dairy Industry Report: Farmworker Survey, conducted 2011-2012.; ³ National Economic and Social Rights Initiative Study Committee Address, October 3, 2012; ⁴ DHS, REAL ID Frequently Asked Questions at Q10, <http://www.dhs.gov/secure-driver's-licenses#2>; ⁵ <http://dmv.vermont.gov/licenses/drivers/requirements>; ⁶ <http://vermont-elections.org/elections1/registerstovote.html#Are you Eligible to Vote in Vermont>