

# Background & Frequently Asked Questions about S-38

## Extending Access to Driver's Licenses and Non-Driver IDs

"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](http://www.migrantjustice.net)



### I need a driver's license/ID because:

- \*"Living without a license in rural VT you feel trapped, stuck, you have no power and are forced to suffer abuses."
- \*"To feel free and like I'm not in a jail, to demonstrate that I am equal to everyone else, that I too need to go to the store or go to the hospital without waiting until someone else drives me or charges me a lot of money."

\* "Like many people we work really hard and sometimes even double the hours so that others can have a glass a milk, a piece of cheese, or an ice cream."

\* "...We get sick like everyone else and no one can take us to the doctors." -VT farmworker testimonies for S-38/H-289

### **Background**

Senator White introduced "S-238" in the 2012 legislature. After extensive testimony the bill was transformed to create access to driver's licenses for all of Vermont's immigrant communities provided applicants meet new standards to prove identity and VT residency. The bill had unanimous support in Senate Agriculture but the Transportation Committee turned the bill into a legislative study. The study committee met throughout the summer and fall and included the **DMV, the Agency of Agriculture, the Department of Public Safety, the Vermont Farm Bureau, the VT Human Rights Commission, the Addison Economic Development Corporation, Migrant Justice and Rep. Burke and Senator Flory** issuing the following conclusion with an 8-1 vote (Senator Flory opposed): "...A majority of the study committee on migrant worker access to driver's licenses and non-driver identification cards (DLs/IDs) recommends that Vermont law be amended to expand eligibility for DLs/IDs to Vermont residents unable to meet current eligibility criteria under 23 V.S.A. § 603(d)...A majority of the committee recommends that DLs/IDs issued to these residents be the same in appearance as DLs/IDs issued to residents able to establish lawful presence in the United States. However, on the date that the Secretary of the U.S. Department of Homeland Security (DHS) requires Vermont to fully comply with the REAL ID Act of 2005, noncompliant DLs/IDs should be made easily distinguishable from REAL ID-compliant DLs/IDs in accordance with the Act and DHS Regulations."

*The committee found that there were no conflicts with federal law, including the REAL ID Act and federal Banking regulations. <sup>1</sup>*

*Senator's Baruth, White, Ashe, Ayer, Cummings, Fox, Lyons, McCormack, Pollina, and Zuckerman all sponsored S-38, which puts into action the recommendations of the study committee. Rep. Burke introduced the same exact bill H-289 in the House with 21 co-sponsors.*

### Why Driver's Licenses?

- 1) Human Rights.** Access to a driver's license/ID upholds fundamental human rights to freedom of movement and facilitates access to health care and food, and increases power/mobility to leave abusive situations including exploitative work conditions or domestic violence.
- 2) Healthy Farms and Communities.** Independent and mobile workers, who aren't forced to rely on employers to meet fundamental human needs improves the lives of everyone.
- 3) Public Safety.** License/ID holders would feel more trust and comfort contacting police, especially as victims or witnesses of crimes, and police could identify and verify license/ID holders when needed. Access to licenses decreases driving without license and allows access to car insurance, improving road safety for all.

### How would this work in practice?

VT Residents unable to prove immigration status would need to meet newly established criteria to prove identity and VT residency and pass the same written exam (already issued in Spanish) and road test just like all applicants. Regardless of this bill, in order to comply with the REAL ID ACT the DMV will issue 2 physically different licenses one w/ REAL ID features and one without those features. When S-38 passes applicants unable to prove immigration status AND all those who want to opt out of the REAL ID features (for various reasons) would be eligible for the license/ID w/out the REAL ID features. Then, all VT residents, regardless of immigration status could obtain a license, purchase insurance and a car. And YES many farmworkers already have the \$ saved to do so!

### Some findings from the legislative study report:

- "Enabling all Vermont residents to identify themselves and to be identified with a familiar document would facilitate the work of law enforcement officers and promote public safety."
- "Authorizing Vermont residents unable to establish lawful presence in the United States to obtain DLs/IDs will encourage their participation in community life, promote positive relationships and diversity within our community, and stimulate economic development."
- "Authorizing such residents to obtain DLs would promote public safety by providing a legal pathway to fulfill the requirements for obtaining a license in Vermont, which would include passing a written examination and a road test. Those who fulfill the requirements for obtaining a DL in Vermont would gain exposure to Vermont motor vehicle laws and Vermont road conditions."

*"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 agriculture in Vermont." -Phyllis Bowdish, Dairy Farmer, Weybridge*

## **Is it legal for the State of VT to provide access to driver's licenses regardless of immigration status?**

**YES.** There are no state or federal laws, including the REAL ID ACT and federal banking regulations that prohibit Vermont from providing access to driver's licenses/ID to undocumented residents. Three states (New Mexico, Washington, and Utah) currently do so and more are joining or exploring this right now with various types of licensing frameworks.

## **If VT is to comply with the REAL ID ACT, is it prohibited from creating access to standard driver's licenses/ID to residents regardless of their status?**

**NO.** In order to comply with the REAL ID ACT, a state **MUST** issue one license/ID that meets all of the required REAL ID features and **CAN** issue additional licenses/ID that do not have the REAL ID features provided the license/ID are easily distinguishable from each other<sup>2</sup>. When S-38 passes, applicants unable to prove immigration status will **ONLY** be eligible for the license/ID **without** the REAL ID features along with **any** Vermont resident who does not want a license/ID w/ REAL ID features.

## **Can't these VT residents just get foreign or international licenses?**

**NO.** An international driver's license is a translation of a foreign driver's license available in an applicants country of origin. The State of Vermont currently requires holders of foreign or international licenses prove immigration status to the VT DMV.<sup>3</sup>

## **Would folks take license exams?**

**YES.** VT residents unable to prove immigration status would need to comply with all current DMV standards in order to obtain a license including passing the written test (already issued in several languages including Spanish) and the standard road test just like any other Vermont resident.

## **Would these new licenses/ID holders be able to vote? Would their possession of a license/ID interfere with voting registries?**

**NO.** All voters are required, by US law, to prove that they are U.S. citizens in order to vote by providing a social security number.<sup>4</sup>



## **Would Vermont banks and financial institutions be legally compromised?**

**NO.** There are absolutely no laws that require banks to inquire into people's immigration status. Under the USA Patriot Act banks must ask name, birth date, address, and obtain an ID number to prove identity. Banks are not required or expected to inquire about the immigration status of **any** applicant. Rather, the law reads, "For a non-U.S. person, one or more of the following (documents): A taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard."<sup>5</sup>

## **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.

<sup>1</sup> <http://www.leg.state.vt.us/reports/2013ExternalReports/285628.pdf>; and also See Conn. Office of Legal Research, *OLR Background: Real ID Implementation in Connecticut*, <http://www.cga.ct.gov/2011/rpt/2011-R-0103.htm>; <sup>2</sup> DHS, REAL ID Frequently Asked Questions <http://www.dhs.gov/real-id-faq-implementation>; <sup>3</sup> <http://dmv.vermont.gov/licenses/drivers/requirements>; <sup>4</sup> <http://vermont-elections.org/elections1/VTVoterApp.pdf>; <sup>5</sup> <http://www.law.cornell.edu/cfr/text/31/1020.220>

**Migrant Justice; Brendan O'Neill and Natalia Fajardo; 802-658-6770; [www.migrantjustice.net](http://www.migrantjustice.net); [info@migrantjustice.net](mailto:info@migrantjustice.net); 294 N. Winooski Ave, Ste. 130, Burlington, VT, 05401**