



DRIVER'S LICENSE FACT SHEET

Proof of Identity and Legal Residency Requirements

Proof of Identity and Residency Requirements

While eligibility requirements vary from state to state, applicants for a state-issued driver's license (DL) must provide proof of age and identity and, in some instances, proof of state and legal residency. Often, these two are intertwined, and many states' proof of identity requirements serve as a *de facto* means of probing into a noncitizen's immigration status by limiting the types of Immigration and Naturalization Service (INS) documents accepted as proof of identity.

Proof of Identity

There are many documents that can be used as proof of identity including DLs issued by other states or countries, U.S. passports, U.S. original state birth certificates, state ID cards, student ID cards, original Social Security cards, U.S. military photo ID cards, Indian tribal photo ID cards, and some INS documents, such as a Certificate of Naturalization, an Arrival-Departure Record (I-94), an Alien Registration Receipt Card (I-551), a Letter of Authorization issued by the INS, a Visa, or a Valid Employment Authorization Card (I-688 A or B). Each state has its own list of acceptable documents. In many states, the list of acceptable documents to verify identity for noncitizens excludes many individuals at various stages of the immigration process. However, some immigrants remain unable to produce the required documentation to prove their identity because they do not have any of the acceptable documents.

In several states, Canadian DLs, passports, and birth certificates can be presented as proof of identity in the same manner as another U.S. state or territory's driver's license or birth certificate. A few states accept documents issued by Germany and France. However, these same documents from other countries may or may not be accepted, resulting in an inequity for noncitizens from most every country in the world.

Proof of State Residency and Legal Immigration Status

Some states explicitly require proof of residency in the state. These states require documentation to prove residency, such as a utility bill, a bank statement, a rent receipt, an insurance policy statement, or a tax receipt. However, proving residency can be difficult for many individuals, particularly when more than one person lives in the same house or apartment and utility bills and rent receipts are often under only one occupant's name. Furthermore, many immigrants do not have bank accounts, insurance policies, or access to other acceptable documents.

In addition to state residency, a few states explicitly require proof of legal immigration status or proof of legal residency in the United States. California explicitly requires proof of legal presence in the United States. Other states are less explicit. For example, in South Carolina the statute denies DLs to anyone "who is not a resident of South Carolina, except for persons from other countries who are present in South Carolina on a student visa or on a work visa or the dependents of the student or worker who may be issued a license."¹ Following September 11, the South Carolina Department of Motor Vehicles began to interpret this provision more narrowly and no longer granted DLs to immigrants without green cards, valid student visas, or work visas, or to dependents of persons with the proper documentation. Finally, in other states undocumented immigrants are not explicitly denied access to DLs, but cannot meet the proof of SSN, proof of identity, or proof of state residency requirements because they do not have the necessary documentation.

Alternatives to Proof of Identity and Proof of Residency Documents

As with the SSN, there are ways to increase immigrants' ability to produce necessary documentation. One solution is to broaden the list of acceptable identity documentation to include foreign documents.

Foreign-issued documents

As mentioned above, several states accept Canadian DLs, passports, and birth certificates as proof of identity, and a few states accept documents from other countries. However, most often these same documents from other countries are not accepted. All states could accept all foreign government-issued documents, thereby allowing more individuals to access DLs.

In most countries, obtaining a passport or consular documents requires extensive documentation before issuance. For example, a Mexican consular document requires (1) a certified copy of a Mexican birth certificate, and (2) a picture ID. Both a foreign passport and consular document are easily recognizable and verifiable documents issued by an individual's country of origin. They provide both an identifiable photograph and the date of birth of an individual.

Likewise, original foreign birth certificates are carefully issued to individuals by national governments. Currently, several states accept foreign birth certificates as the only document required for identification purposes. Other acceptable foreign government-issued documents include a national military identification card, a voter registration card, driver's license, school records, or a variety of other documents.

There are also alternative ways to prove state residency. For example, some community service organizations are willing to provide affidavits that can be notarized and used for proof of state residency. Residents can request that newsletters or other pieces of mail be sent to them at their address to be used as proof of residency. Individuals and organizations need to check with their local DL agency to determine what types of proof of state residency are acceptable.

As for proof of legal U.S. residency, the best alternative would be to overturn existing laws and regulations requiring legal U.S. residency. If that is not feasible, states with this requirement can evaluate the list of acceptable documents to ensure that all legal residents are covered.

A note of caution. INS documentation and immigration law are extremely complex and subject to frequent changes. State driver's licensing agencies do not have the authority or the expertise to navigate through the variety of immigration status documents. State DL agencies should work to ensure that those individuals who drive on roads are licensed, insured, and knowledgeable of all rules, and not act as INS agents verifying immigration status.

ⁱ Section 56-1-40 (7).