



# Deciding Who Drives

State choices surrounding unauthorized immigrants and driver's licenses

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**Note:** This report was updated on Sept. 3, 2015, to correct a misstatement on Page 23 that the REAL ID Act of 2005 requires facial recognition technology. The act requires facial image capture. In addition, clarifications were made to endnotes 82 and 89.

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## Overview

U.S. citizens and lawful immigrants can routinely obtain and renew driver's licenses, but some states have decided to allow unauthorized immigrants—those who do not have explicit permission from the U.S. government to reside in the country—to do so as well. As of the summer of 2015, 10 states (California, Colorado, Connecticut, Illinois, Maryland, Nevada, New Mexico, Utah, Vermont, and Washington) and the District of Columbia issue driver's licenses, or similar documents referred to by different names, to this population, and nearly 37 percent of unauthorized immigrants live in a jurisdiction where they may obtain a license.<sup>1</sup>

Regulation of driver's licenses is a state-level function, and state legislative activity around this question has increased in recent years. In 2013 alone, eight states and the District of Columbia passed laws making unauthorized immigrants eligible for driver's licenses (one was later repealed). In 2015, Delaware and Hawaii enacted similar laws. As of this report's publication, neither state had begun issuing licenses.

Debates over whether and how to license unauthorized immigrants are ongoing in many statehouses. In the coming years, more states are likely to consider whether to allow them access to driver's licenses, while some that have such laws may contemplate changing or repealing them.

States consider legislation regarding these immigrants' access to driver's licenses in the context of the federal REAL ID Act, the 2005 law that created national standards for state driver's licenses that can be used for federal identification. This law expressly authorizes states to provide licenses to unauthorized immigrants, but only if the licenses are distinct from regular ones in specific ways. State decisions also are likely to be affected by the federal executive actions announced in November 2014 that, if fully implemented, could allow millions of unauthorized immigrants who meet certain conditions to acquire the documents needed to apply for regular driver's licenses under existing state laws.

This report highlights the decisions and experiences of policymakers and issuing agencies in 11 jurisdictions that issue driver's licenses to unauthorized immigrants. Looking at their collective experiences shows the variety of approaches that states have taken and the issues they have confronted. These insights provide state legislators and other state policymakers with information to consider as they weigh their own choices.

Legislative debates about issuing driver's licenses to unauthorized immigrants have focused on topics ranging from the impact on public safety to insurance and accident rates. The Pew Charitable Trusts takes no position on federal, state, or local laws or policies related to immigration or driver's licenses. As such, this report provides an overview of current laws and practices in jurisdictions that have opted to allow unauthorized immigrants to receive driver's licenses. We do not examine the merits of these laws but instead focus on the choices that state legislators and administrators have made in preparing for and implementing them. This report does not address the issuance of learner's permits.

In examining state experiences, Pew identified four critical areas for policymakers to consider as they decide whether and how to issue driver's licenses to unauthorized immigrants: scope, eligibility standards, issuance procedures, and outreach and education. Exploring how the various jurisdictions handle each of these four areas, Pew developed a series of key takeaways:

**Scope.** States estimate how many people could be eligible, how many will apply, and how often they would need to renew their licenses. These estimates help plan for initial startup costs, staffing and technological upgrades, and the expected costs of ongoing administration. They also help project the revenue the issuing agency can expect to collect from new customers. **Pew found that states varied in how they estimated demand. That meant**

**big differences in anticipated and realized costs and revenue and in the projected need for state resources and staffing.** Each state projected that fees would pay for the costs of providing licenses, and most expect that revenue eventually would exceed costs. Still, it is too soon to determine whether startup funding and staffing levels have been sufficient, or whether costs and revenue have been appropriately balanced.

### Key takeaway 1

Consulting multiple sources of data, examining other states' experiences, and making multiyear projections help to assess demand and allocate resources over time.

### Key takeaway 2

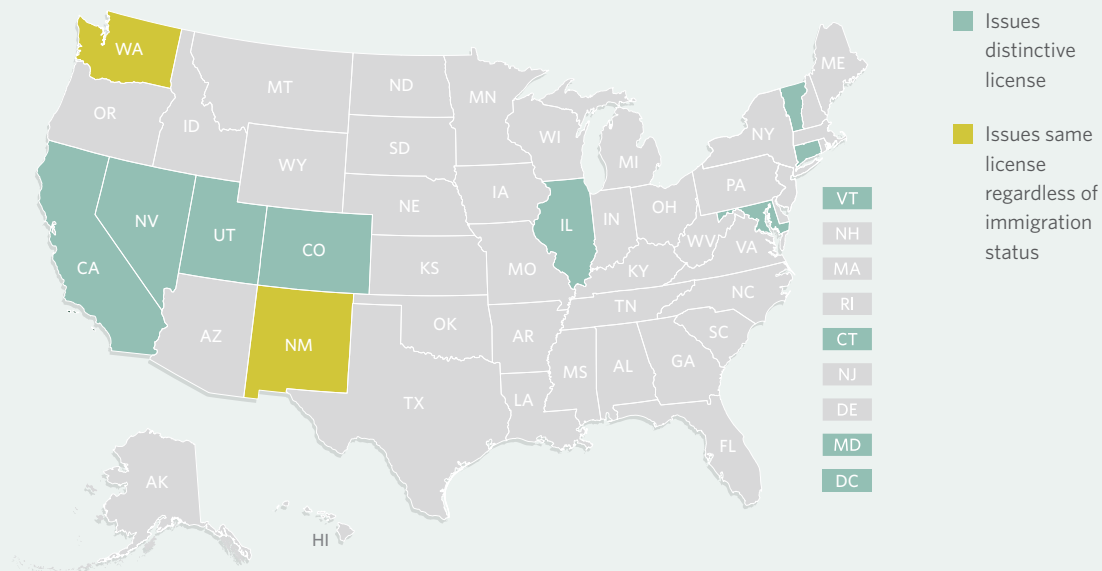
Estimating and planning for startup costs help ensure that issuing agencies can implement the law effectively before they receive fee revenue.

### Key takeaway 3

Budgeting for the necessary staff and technology systems is important; states can first explore ways to reduce costs by adapting existing systems before designing completely new ones.

Map 1

## Jurisdictions Issuing Driver's Licenses to Unauthorized Immigrants



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**Eligibility standards.** States determine the requirements for obtaining a license and how unauthorized immigrant applicants will meet them. This includes defining who is eligible to receive one and specifying the documents that can be accepted to prove eligibility. **Pew found that states employ different strategies to accommodate people who do not have U.S. government-issued identity documents.** Seven states and the District of Columbia require applicants to translate foreign-issued identity and residency documents into English. Four offer special procedures so that those who do not have the required documents can be considered on a case-by-case basis.

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### Key takeaway 4

Working with foreign consulates, community organizations, and other experts can help states determine which documents unauthorized immigrants commonly hold and how to verify their authenticity.

### Key takeaway 5

Considering which foreign-issued documents—or which portions of them—require translation and who is authorized to provide translation services is critical when accepting documents in other languages.

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**Issuance procedures.** States define the processes to apply for, obtain, and renew the alternative licenses. They consider the best ways to identify and manage potential fraud by applicants who may have previously used falsified documents. States also make decisions about the circumstances under which applicant information will be shared with other public or private entities. **Pew found that some states created entirely new appointment systems to manage the demand from new applicants.** Six states and the District of Columbia require that unauthorized immigrants make appointments to apply for licenses, while an additional two states recommend appointments. Nine jurisdictions allow unauthorized immigrants to apply at any issuing agency location, while two limit where they may apply.

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### Key takeaway 6

Creating appointment systems can help manage the flow of applicants and provide a means to communicate requirements so that applicants arrive prepared. States also need to be able to handle the demand for appointments, monitor scheduled appointments for potential problems, and resolve issues that arise.

### Key takeaway 7

Processes for handling applicants who have used fraudulent documents to obtain driver's licenses in the past should be considered. Current fraud procedures may be adequate, or issuing agencies may need a separate system for alternative license applicants.

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**Outreach and education.** States create outreach materials to educate those eligible about the requirements and the application process. They often look for ways to educate relevant communities about the agencies' information-sharing policies to build trust among the target population. **Pew found that states used a variety of approaches to reach immigrant communities and provide information about the new laws.**

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## Key takeaway 8

Proactively educating and informing target populations are critical to their awareness and preparedness. Issuing agencies can work with trusted community-based organizations and produce culturally and linguistically appropriate materials to extend their reach into immigrant communities.

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### Who Decides?

The decision to allow unauthorized immigrants to obtain state driver's licenses requires legislation, which is then implemented by state officials and agencies. This report highlights key decisions that must be made in the process. State legislators may include in the legislative language specific instructions about how a law will be carried out, particularly if they want to ensure that it is done in a certain manner. In other cases, legislators may use more general language, allowing decisions about implementation to be made through the regulatory process, by a commission or task force, or by administrators within the issuing agency. State legislators can decide where and how to include specific instructions for issuing agencies. State administrators also make many decisions as they prepare to implement a new law.

As we describe the choices made by the 11 jurisdictions examined here, we have provided, where possible, information about who made the decision and whether instructions were included in the statute.

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## A changing landscape

How the federal government should revamp its immigration policies continues to spur contentious debate at the national level, but states must grapple with practical matters related to immigrant populations, such as whether and how to grant driver's licenses to certain immigrants who are not authorized to be in the country. The legal landscape has been shifting as various states act on these questions and respond to changes in policies and laws made in Washington, D.C.

The number of states granting these licenses has risen in recent years, but the movement has not been in one direction. Some states have both enacted and repealed license legislation, and the roster with such laws has shifted over time.<sup>2</sup> Until the 1990s, states did not explicitly restrict unauthorized immigrants from obtaining driver's licenses. California was the first to enact such a restriction in 1993, followed by Arizona in 1996.

In the decade that followed, most states changed their laws to explicitly require that driver's license applicants prove legal immigration status. By 2011, unauthorized immigrants could obtain licenses only in New Mexico, Utah, and Washington. In 2001, Tennessee passed a law allowing unauthorized immigrants to obtain regular driver's licenses and then passed another creating a separate "driving certificate" that took effect in May 2004.<sup>3</sup> The state stopped issuing driving certificates in February 2006;<sup>4</sup> the law was repealed in October 2007.<sup>5</sup>

In 2003, California enacted a law allowing unauthorized immigrants to obtain driver's licenses, but it was repealed later that same year.<sup>6</sup> In 2013, eight states—including California and Oregon—and the District of Columbia enacted laws allowing unauthorized immigrants to obtain licenses if they met all eligibility requirements. Voters in Oregon, however, repealed their law by ballot initiative in November 2014 before it had been implemented.<sup>7</sup> (Appendix A provides a timeline of key state actions.) Delaware and Hawaii enacted new driver's license laws in 2015, but as of publication, neither state had begun issuing the licenses.

As of August 2015, 10 states and the District of Columbia issue driver's licenses to unauthorized immigrants. (See Map 1.) Nearly 37 percent of unauthorized immigrants in the United States live in a jurisdiction where they are eligible to apply for a license.<sup>8</sup> (See Table 1.) Nationally, about 3.5 percent of the population is unauthorized.<sup>9</sup> In five of the states that issue licenses to this population, unauthorized immigrants as a percentage of state population exceed the national average. Two states' unauthorized populations match the national average, and three states plus the District of Columbia fall below. (See Figure 1.)

Table 1

## Nearly 37% of Unauthorized Immigrants Live Where They May Get a Driver's License

Largest percentage of total resides in California

State	Estimated number of unauthorized immigrants	As a percentage of total unauthorized immigrants in the United States
<b>U.S. total</b>	11,200,000	100%
<b>California</b>	2,450,000	22%
<b>Colorado</b>	180,000	2%
<b>Connecticut</b>	130,000	1%
<b>District of Columbia</b>	20,000	Less than 1%
<b>Illinois</b>	475,000	4%
<b>Maryland</b>	250,000	2%
<b>Nevada</b>	210,000	2%
<b>New Mexico</b>	70,000	1%
<b>Utah</b>	100,000	1%
<b>Vermont</b>	Less than 5,000	Less than 1%
<b>Washington</b>	230,000	2%
		<b>Total: 37%</b>

Source: Jeffrey S. Passel and D'Vera Cohn, "Unauthorized Immigrant Totals Rise in 7 States, Fall in 14," Pew Research Center (Nov. 18, 2014)

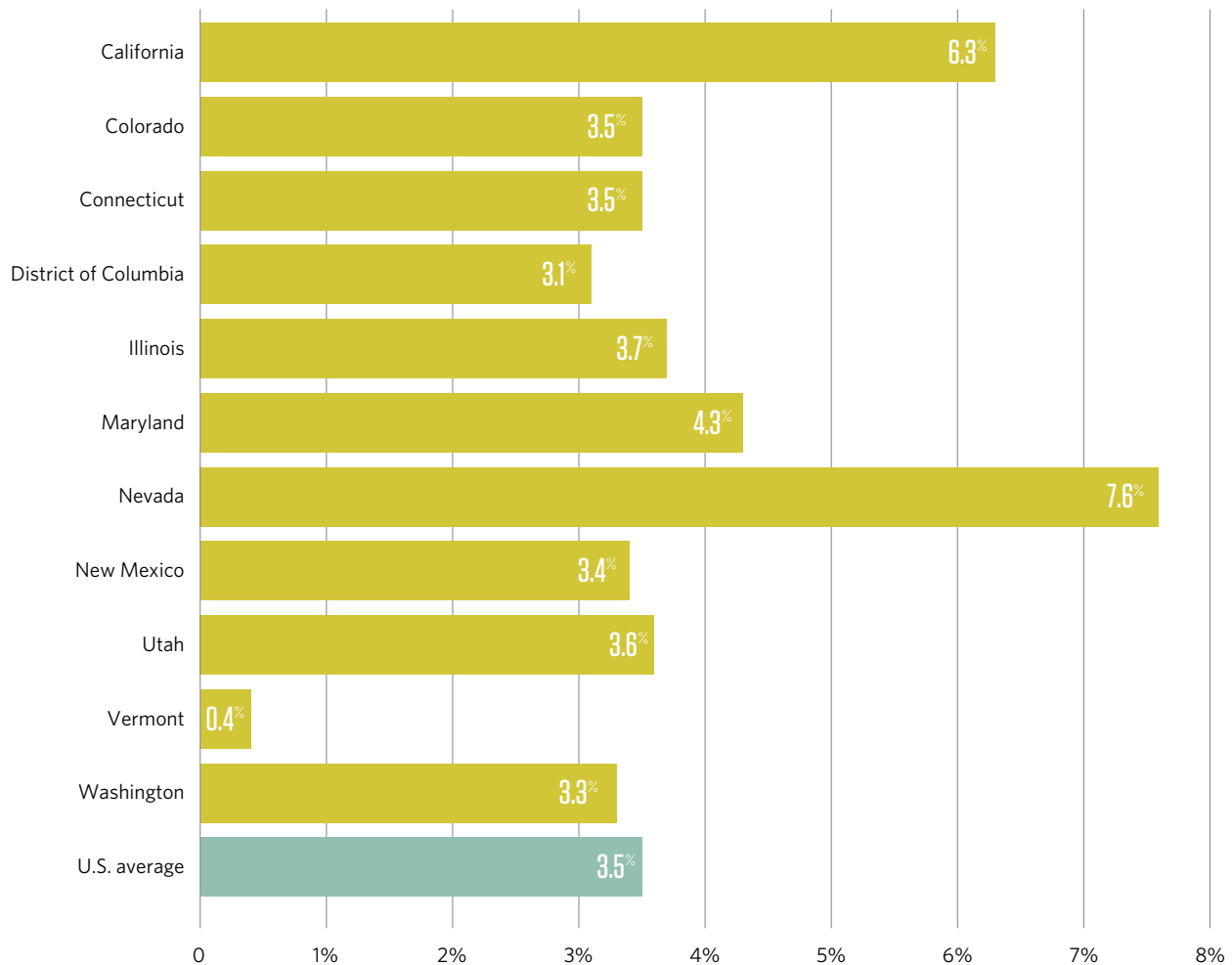
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Figure 1

## Unauthorized Immigrants as Percentage of Population in Jurisdictions Granting Licenses

Higher than national level is found in 5 of 11



Source: Jeffrey S. Passel and D'Vera Cohn, "Unauthorized Immigrant Totals Rise in 7 States, Fall in 14," Pew Research Center (Nov. 18, 2014)

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## REAL ID Act and driver's licenses for noncitizens

The types and appearance of licenses issued vary greatly among the 11 jurisdictions, in part because of how each has chosen to respond to the requirements of the federal REAL ID Act.

While issuing driver's licenses and determining eligibility remains a state-level choice and responsibility,<sup>10</sup> the federal government took on a role when the REAL ID Act was signed into law in 2005.<sup>11</sup> The legislation set minimum standards that states had to adopt for licenses to be recognized by federal agencies for official purposes. Among those purposes, as defined by the Department of Homeland Security (DHS), are gaining access to federal facilities, entering nuclear power plants, and boarding federally regulated commercial planes.<sup>12</sup>

After several delays, DHS announced a plan in December 2013 to phase in enforcement of the new requirements. People attempting to enter restricted areas at federal facilities and nuclear power plants would need compliant identification as of April 2014. Documents that met the requirements would be needed to board federally regulated aircraft no sooner than 2016.<sup>13</sup> States will not be penalized if they choose not to comply with the REAL ID Act, but residents without driver's licenses that adhere to the law will need to produce other acceptable forms of identification for official purposes or they could face additional screening.

The states that choose to comply must collect and verify specific information from applicants. Among the required materials are a photo identification document or a nonphoto document that contains the full legal name and date of birth, as well as proof of date of birth, proof of a Social Security number or verification of ineligibility for one, and a document with the name and address of the principal residence.<sup>14</sup> The law also requires that states adopt certain procedures and practices for document retention, facial image capture, verification, physical security of facilities, and fraud recognition.<sup>15</sup>

Under the law, noncitizens who have temporary lawful status and apply for a driver's license must be issued a temporary license; the expiration date must be the same as the expiration of immigration status or, if there is no definite end to the authorized period of stay, the card must expire in one year. These temporary cards must be marked clearly on the front with the words "Temporary" or "Limited-Term."<sup>16</sup> The REAL ID Act requires states to verify an applicant's lawful immigration status before issuing a REAL ID-compliant license.<sup>17</sup>

States complying with the act can issue driver's licenses to unauthorized immigrants, but they must create an alternative license for this purpose. (These states also may issue alternative licenses to others who are either ineligible for or who choose not to apply for a REAL ID-compliant license.) According to DHS, these alternative licenses must have a unique color or design. They must clearly state on their face that they are not accepted for federal identification or for official purposes.<sup>18</sup>

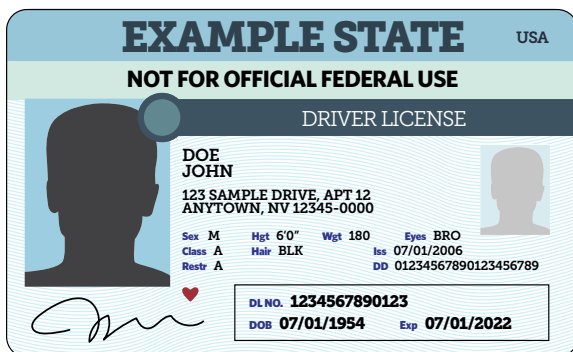
As of August 2015, six states (California, Connecticut, Maryland, Nevada, Utah, and Vermont) and the District of Columbia have created alternative licenses; Colorado and Illinois issue unauthorized immigrants an existing temporary license that certain lawfully present immigrants receive. New Mexico and Washington issue regular driver's licenses to all applicants, regardless of immigration status. The nine jurisdictions that currently issue alternative or temporary driver's licenses to unauthorized immigrants use various design elements to set them apart from regular licenses. For example:

- Illinois' statute requires that its temporary visitor's license say on its face, in capital letters, that it cannot be accepted as a form of identification.<sup>19</sup>
- The statutes in the District of Columbia and Maryland say that their licenses must clearly state that they are not acceptable by federal agencies for official purposes.<sup>20</sup>
- Utah's driving privilege card is a different color from that used on regular licenses and is clearly marked "Not valid for identification."<sup>21</sup>
- Colorado's temporary license has a black banner and states that it is "not valid for federal identification, voting, or public benefit purposes."<sup>22</sup>
- California's statute called for the alternative license to appear very similar to the regular license, allowing for limited revisions to satisfy DHS' requirements for a REAL ID-compliant license.<sup>23</sup> The agency found that the first design did not meet its requirements<sup>24</sup> but has since indicated that alternative language on the face of the license ("Federal Limits Apply") is satisfactory.<sup>25</sup>

## A Note on Terminology

Most states issue both driver's licenses and identification cards for nondrivers. This report examines only driver's licenses.

- A "regular" driver's license refers to the license that U.S. citizens and lawfully present immigrants who qualify for a regular license receive. In New Mexico and Washington, all drivers, including unauthorized immigrants, receive a regular license.
- A "temporary" license is generally issued to noncitizens who are authorized to be present in the U.S. only for a specified time period. The expiration date of the temporary license generally coincides with the visa expiration date. Colorado and Illinois, however, issue temporary licenses to unauthorized immigrants.
- An "alternative" license refers to the distinctive licenses issued to unauthorized immigrants (and others who are not eligible for, or choose not to get, a regular driver's license). These licenses are not acceptable as identification for certain official federal purposes. Some states refer to these as "driving privilege cards," "driver authorization cards," or other specific names. (See Table 2.)
- Depending on the state, driver's licenses are issued by the motor vehicles department, the revenue department, or another agency. This report refers to all of these entities as "issuing agencies."



Alternative licenses must have a unique color, identifier, or design and must clearly state on their face that they are not acceptable for federal identification or for official purposes.

## Deferred action and driver's licenses

Federal initiatives that allow certain unauthorized immigrants to avoid deportation have an indirect impact on state driver's license laws and highlight the relationship between federal immigration policies and state laws and policies. On Nov. 20, 2014, President Barack Obama announced an executive action that could allow up to 4 million unauthorized immigrants who came to the U.S. as children, or who have children who are U.S. citizens or lawful permanent residents, to be eligible to avoid deportation (called "deferred action"). Under the program, they could get employment authorization documents and a Social Security number.<sup>26</sup> The announcement built on the Deferred Action for Childhood Arrivals (DACA) program created in 2012, which allows unauthorized immigrants who arrived in the U.S. as children to avoid deportation.

With that paperwork, people covered by the program would have documents that all states allow to establish eligibility for a driver's license.<sup>27</sup> As such, many DACA recipients are applying for and receiving licenses. A 2014 survey found that 57 percent had done so.<sup>28</sup>

However, some states have challenged whether these immigrants should be eligible for licenses.

- In 2012, shortly after the implementation of DACA, Arizona and Nebraska tried to prohibit individuals who had their deportations deferred from being issued driver's licenses.<sup>29</sup> In February 2014, a federal judge dismissed one lawsuit challenging Nebraska's policy,<sup>30</sup> though another lawsuit was pending.<sup>31</sup> In May 2015, the Nebraska Legislature passed and subsequently overrode the governor's veto of a bill (L.B. 623) that allows DACA recipients to obtain state driver's licenses.<sup>32</sup>
- In July 2014, the 9th Circuit U.S. Court of Appeals blocked implementation of Arizona's policy of denying driver's licenses to DACA recipients.<sup>33</sup> On Dec. 17, 2014, the U.S. Supreme Court let the ruling stand, effectively requiring the state to issue driver's licenses to DACA recipients.<sup>34</sup>
- North Carolina's Division of Motor Vehicles initially stated that it would stop issuing licenses to DACA recipients while it awaited a legal opinion from the state attorney general. The state reversed course when that opinion supported granting the licenses.<sup>35</sup> Licenses issued to DACA recipients in North Carolina are marked "Legal Presence No Lawful Status."<sup>36</sup>

The federal executive actions announced in 2014 were to be implemented in the spring of 2015 but have been postponed because of continuing litigation. If these programs go into effect, many more people could receive deferred action and states could again face choices about whether to issue them driver's licenses. Even without specific new legislation to extend license eligibility to unauthorized immigrants, states that issue licenses to deferred action recipients then could see increases in the number of people eligible for these licenses.

Meanwhile, states that issue driver's licenses to unauthorized immigrants without deferred action status could see a decrease in the number of applicants for alternative licenses because some of these people would be eligible for regular licenses.

At the time of this writing, implementation of these executive actions remains contested in court, and no implementation date has been set.

Table 2

## Jurisdictions That Issue Driver's Licenses to Immigrants Who Are Unable to Prove Lawful Status

State	Law and enacted date	Effective date	Estimated number of applicants*	Name of document issued
<b>California</b>	A.B. 60 (enacted Oct. 3, 2013) Amended by S.B. 853 (enacted June 20, 2014) and A.B. 1660 (enacted Sept. 19, 2014)	Jan. 1, 2015	1.4 million; 38% in FY 2014-15, 50% in FY 2015-16, and 12% in FY 2016-17 <sup>†</sup>	Driver license
<b>Colorado</b>	S.B. 13-251 (enacted June 5, 2013) Amended by S.B. 194 (enacted June 5, 2014) and S.B. 87 (enacted May 31, 2014)	Aug. 7, 2014	46,523 in FY 2014-15; 15,508 in each of the next 2 fiscal years	Driver's license
<b>Connecticut</b>	H. 6495 (enacted June 6, 2013)	Jan. 1, 2015	54,000 over 3 years	Drive only license
<b>District of Columbia</b>	B. 20-275 (enacted Nov. 18, 2013)	May 1, 2014	25,000 (70% in FY 2014 and 30% in FY 2015)	Limited purpose driver license
<b>Illinois</b>	S.B. 0957 (enacted Jan. 27, 2013)	Nov. 28, 2013	250,000 to 1 million <sup>‡</sup>	Temporary visitor driver's license
<b>Maryland</b>	S.B. 715 (enacted May 2, 2013)	Jan. 1, 2014	Some 95,000 individuals who were issued driver's licenses under a previous law will renew, and an additional 135,000 will apply (40% in 2014, 20% in 2015, and the remaining in FY 2016-18).	Driver's license
<b>Nevada</b>	S.B. 303 (enacted May 31, 2013)	Jan. 1, 2014	60,000 total	Driver authorization card
<b>Utah</b>	S.B. 227 (enacted March 8, 2005) Amended by S.B. 40 (enacted March 25, 2009)	March 8, 2005	Estimates ranged from 15,000 to 90,000; approximately 40,000 have been issued per year. <sup>§</sup>	Driving privilege card
<b>Vermont</b>	S. 38 (enacted June 5, 2013) Amended by S. 314 (enacted June 12, 2014)	Jan. 1, 2014	1,500 total	Driver's privilege card
<b>States that issue the same license to all regardless of immigration status</b>				
<b>New Mexico<sup>  </sup></b>	H. 173 (enacted March 18, 2003)	2003	N/A	Driver's license
<b>Washington<sup>#</sup></b>	N/A	N/A	N/A	Driver license

\* Source is a fiscal note, unless otherwise noted.

† Mac Taylor, "The 2014-15 Budget: Transportation Proposals," California Legislative Analyst's Office (March 6, 2014), 21, <http://www.lao.ca.gov/reports/2014/budget/transportation/transportation-030614.pdf>.

‡ Lisa Grau, director, Temporary Visitor Driver's License Program, Illinois secretary of state's office, interview with author, July 29, 2014.

§ Chris Caras, driver services bureau chief, Utah Division of Motor Vehicles, Utah Department of Public Safety, interview with author, Aug. 4, 2014.

|| New Mexico does not have a legal presence requirement. H. 173 allowed individuals who do not have a Social Security number to provide an Individual Taxpayer Identification Number (ITIN).

# Washington does not have a legal presence requirement.

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## Licensing unauthorized immigrants: A range of approaches

Analysis of current laws allowing unauthorized immigrants to obtain driver's licenses shows four areas in which states face critical questions that define the parameters of their programs and help them prepare for implementation. State legislators, issuing agencies, and other interested policymakers need to consider the scope of the program, eligibility standards, issuance procedures, and plans for outreach and education.



### Scope

States considering whether to enact legislation to offer alternative driver's licenses should determine the expected scope of the program. To do this, they must determine the number of potential applicants and demand for services; the expected costs of creating and maintaining the program, as well as the likely revenue; and any new staffing and technology needs.

#### Potential applicants and the demand for services

The number of potential applicants affects staffing and facility needs, license processing and issuance, and expected costs and revenue. In all 11 cases in this study, initial estimates were included in a fiscal note or projected fiscal impact statement accompanying the legislation. States used various sources for estimating the number of people who could be eligible, including DHS, think tanks, nongovernmental organizations, and other states.

Estimates may need to be modified during implementation if new information comes to light. In its 2014-15 budget proposal, for example, the California governor's office acknowledged that estimating the exact number of applicants is difficult, and it noted the importance of regular updates from the issuing agency.<sup>37</sup> Connecticut's fiscal analysis report originally estimated that about 54,000 unauthorized people would apply under the new license program.<sup>38</sup> After talking with community-based organizations, however, staff at the state Department of Motor Vehicles thought the number could be as high as 250,000.<sup>39</sup> Estimates of the number eligible also can shift because of changes to federal policies that allow certain unauthorized immigrants to obtain the documents needed to qualify for regular driver's licenses, such as the executive actions on immigration. This can reduce the demand for alternative licenses.



The demand for this license will be far greater than initial numbers might indicate. As it is so difficult to pinpoint just how many undocumented individuals are living in any given area, the numbers are often underestimated. Be prepared."

Lisa Grau, director of the Temporary Visitor Driver's License Program, Illinois secretary of state's office

Recognizing that not all applicants will apply immediately, some states also estimated the percentage of those eligible who are likely to apply for a license in the first, second, or third year of implementation. For example, Connecticut estimated that 55 percent of the total eligible population would apply in the first year, 30 percent in the second, and 15 percent in the third.<sup>40</sup> The District of Columbia estimated that 70 percent would apply in the first year with the remainder applying in the second.<sup>41</sup> California estimated that 38 percent of likely applicants would apply the first fiscal year, 50 percent in the second, and 12 percent in the third.<sup>42</sup>

Issuing agencies also estimated the recurring demand, factoring in when the licenses will require renewal. The length of time for which an alternative license is valid varies across states. (See Table 3.) If it is valid for one year, for example, the same group of people will need to return each year to renew their licenses. Where licenses are valid for a longer period, the renewal cycle will be spread over a longer time interval.

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## Key takeaway 1

Consulting multiple sources of data, examining other states' experiences, and making multiyear projections help to assess demand and allocate resources over time.

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## Costs and revenue

States considering issuing alternative driver's licenses should weigh both the costs associated with implementing such changes, especially startup expenses and costs for new personnel, and the potential revenue generated from fees paid by applicants. The total cost and revenue projections depend on multiple factors, including the accuracy of the estimates of the eligible population and who will actually apply, how many renew, the frequency of renewal, and the amount of license fees collected.

### Fiscal Notes

Estimating costs and revenue for legislation generally begins with creation of a fiscal note—an analysis, usually prepared by a legislative fiscal office, that estimates the effect a bill could have on state expenditures and revenue. However, notes in different states can vary widely in scope, detail, and purpose. All jurisdictions examined here had fiscal notes that accompanied their driver's license legislation.

Projected operating costs and revenue varied greatly by state, depending on the number of eligible applicants expected to apply and the number of new staff expected to be hired:

- California's fiscal summary estimated costs of approximately \$140 million to \$220 million and application fee revenue of approximately \$50 million over three years.<sup>43</sup> That assumed 1.4 million unauthorized immigrants would apply for driver's licenses over a three-year period. The state's 2014-15 budget allocated \$67.4 million to issue licenses to unauthorized immigrants and included a mechanism for increasing funding if the number of applicants proved unexpectedly high.<sup>44</sup>

- Maryland’s fiscal note estimated that 230,000 alternative licenses would be issued from 2014 to 2018 and projected expenditures of \$2.4 million in fiscal year 2014, \$3.5 million in fiscal 2015, \$2.1 million in fiscal 2016, and more than \$484,000 annually beginning in fiscal 2017.<sup>45</sup> The state’s projected revenue would increase by \$3.9 million in fiscal 2014, \$3.2 million in fiscal 2015, \$2 million in fiscal 2016, and about \$1.1 million in fiscal 2017 and 2018.<sup>46</sup>
- Illinois projected between 250,000 and 1 million total applicants and the state’s fiscal note estimated that its law would cost \$800,000 in the first year and \$250,000 in subsequent years. The note estimated that revenue would be sufficient to meet or exceed operational costs after the first year.<sup>47</sup>
- Vermont’s fiscal note did not include any anticipated costs but projected a net revenue increase of \$20,000 to \$40,000 a year.<sup>48</sup>
- New Mexico’s fiscal note projected minimal net implementation expenditures, probably because the state issues the same license to all applicants regardless of immigration status, and no special changes were required.<sup>49</sup>

Programs to issue driver’s licenses, including alternative licenses, are generally intended to be “self-funded” over the long term, meaning that fees are designed to cover costs of issuance. The price of the license generally reflects the costs of production, administrative services, and staff time. License fees vary widely among jurisdictions. Except for the District of Columbia, the fees for licenses issued to unauthorized immigrants are not included in the statutes that created the alternative licenses analyzed here.

Fees for driver’s licenses are generally set elsewhere in the state code, or the code may instruct regulators or the issuing agency to set the fees. In most states, the fee for the alternative license, excluding fees for knowledge or road testing, equals that of a regular driver’s license.<sup>50</sup> (See Table 3.) However, states may choose to charge additional fees for licenses for unauthorized immigrants. In Colorado, regulations state that distinctive licenses for this population are subject to an additional fee of \$29.50.<sup>51</sup> In Utah, applicants for the driving privilege card must pay an additional one-time fee of \$25 for fingerprint processing and storage.<sup>52</sup>

Typically, states deposit collected fees in a designated fund, such as the Transportation Fund in California<sup>53</sup> or the Licensing Services Cash Fund in Colorado,<sup>54</sup> and then appropriate the money to the issuing agency through the state budget. However, because fees are not generated until after implementation, agencies may need funding to cover startup costs.

Several states included estimates for one-time startup and implementation costs in their legislative fiscal notes. For example:

- Colorado’s fiscal note projected several one-time startup costs, including \$390,000 to design and create new licenses with modern document security features, almost \$36,000 to reprogram the driver’s license technology system of the Department of Revenue, and smaller amounts for legal review and rule-making and to create and print forms to be signed by applicants.<sup>55</sup>
- The District of Columbia’s fiscal note projected a one-time expense of \$550,000 in fiscal 2014 for public outreach, translation services, and upgrades to the licensing system.<sup>56</sup>
- Nevada’s fiscal note anticipated a one-time vendor fee of \$75,000 to create the driver privilege card with the necessary features.<sup>57</sup>



Table 3  
Licenses Vary in Cost and Length of Validity

State	Regular license*		Alternative license*	
	Cost	Length of validity	Cost	Length of validity
California	\$33	5 years	\$33	5 years
Colorado	\$21	5 years	\$50.50	3 years
Connecticut	\$72	6 years	\$72	6 years
District of Columbia	\$44	8 years	\$44	8 years
Illinois	\$30	4 years	\$30	3 years
Maryland	\$30 or \$48	5 or 8 years	\$30 or \$48	5 or 8 years <sup>†</sup>
New Mexico	\$18 or \$34	4 or 8 years <sup>‡</sup>		
Nevada	\$41.25	8 years	\$22.25	1 year
Utah	\$25	5 years	\$25 <sup>§</sup>	1 year <sup>  </sup>
Vermont	\$30 or \$48	2 or 4 years	\$30 or \$48	2 or 4 years <sup>#</sup>
Washington	\$54	6 years		

\* Excludes any fees associated with knowledge or road tests.

† Maryland is transitioning to eight-year licenses for all individuals over the age of 18. During the period of transition, individuals may receive a license valid for a length of time ranging from five to eight years. Fees are prorated accordingly.

‡ In New Mexico, all individuals can elect to receive either a four-year license for \$18 or an eight-year license for \$34.

§ The fee for alternative licenses in Utah is likely to change because of the passage in 2015 of S.B. 184, which requires the Utah Division of Motor Vehicles to check alternative license applicants against an FBI database rather than a regional database.

|| In Utah, S.B. 40, enacted in 2009, changed the period of validity from five years to one year.

# In Vermont, individuals can choose to receive either a two-year license for \$30 or a four-year license for \$48.

Source: State department of motor vehicle websites as of April 1, 2015

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Issuing agencies that do not budget for startup costs or that underestimate operating costs can experience funding shortages and require additional appropriations. According to the Colorado Joint Budget Committee, initial projections for the number of applicants and costs there were well below the actual amounts, putting a strain on the appropriated resources.<sup>58</sup> Unable to cover the costs to maintain the program as launched, the state Division of Revenue requested an additional \$166,000 from the Licensing Services Fund. The Joint Budget Committee initially denied the request in January 2015 but approved an additional \$66,000 in March 2015.<sup>59</sup> The full Colorado Legislature approved the funding later that month.<sup>60</sup>

Because most alternative driver's license laws have only recently entered into effect, comparisons cannot yet be made between initial estimates and actual revenue and costs. In New Mexico and Washington, which have a longer experience, officials have not calculated the actual revenue and costs. Future research could explore this area of program evaluation.

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## Key takeaway 2

Estimating and planning for startup costs help ensure that issuing agencies can implement the law effectively before they receive fee revenue.

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### Staffing and technology

To implement alternative driver's license programs, states may need to hire additional employees. According to fiscal notes, the cost of new personnel was the largest anticipated expense. After implementation begins, however, issuing agencies may find that the actual number and type of staff needed may be different from initial estimates. In some cases, states may not have the flexibility to hire additional staff. These staffing decisions then can affect the numbers of appointments available and customers processed each day.

Just as the number of potential new applicants varies widely from state to state, so do the number and types of estimated or actual new staff. For example:

- California estimated that it would likely hire about 822 new limited-term positions.<sup>61</sup>
- Illinois hired 100 people, including bilingual call operators for its telephone-based appointment system.<sup>62</sup>
- Connecticut planned to hire 18 people in preparation for a January 2015 implementation date.<sup>63</sup>
- Maryland estimated that it would hire 10 permanent staff to process licenses and 55 temporary workers to handle the early stages of implementation.<sup>64</sup>
- Colorado initially hired 4.4 full-time equivalents and 13 temporary employees;<sup>65</sup> the temporary positions were eliminated in 2015.<sup>66</sup>
- The District of Columbia reported that it would hire two investigators and one road test examiner.<sup>67</sup>
- Nevada's fiscal note anticipated that 14 additional employees would be hired.<sup>68</sup>
- New Mexico, Utah, and Vermont reported that they did not hire any new employees in conjunction with laws to issue licenses to unauthorized immigrants.<sup>69</sup>

All jurisdictions reported the need to retrain existing staff to process new alternative licenses. For example, staff must be able to recognize eligibility documents that were not previously accepted, such as consular cards, and to detect ones that are fraudulent. Addressing this new challenge, Michael Smith, operations director of the Vermont Department of Motor Vehicles, stated: "We have worked with staff for many years to learn how and what documents denote legal presence. Now we have a situation where legal presence is not an issue. ... This is very conflicting for our staff."<sup>70</sup>

Changes to computer systems and programming also may be needed to accommodate new documents or to reflect a new license design. Technology upgrades or new websites may be needed if a state is going to create or expand an appointment system. For example, Colorado reported that it undertook major programmatic and computer system changes to be able to accept new types of documents.<sup>71</sup> The state's fiscal note estimated a one-time information technology cost of over \$425,000 to reprogram its computer system.<sup>72</sup> Illinois reduced costs by adapting its existing commercial driver's license system for its alternative licenses, rather than changing the technical systems that support issuance of traditional licenses.<sup>73</sup>

Most states reported that they were making changes to their computer systems to comply with the REAL ID Act, so they were able to roll the changes and costs associated with alternative licenses into ongoing upgrades.

The need for system upgrades also can go beyond the issuing agencies. For example, the Maryland Comptroller's Office had to design a system for issuing proof of tax payments to individuals applying for alternative driver's licenses to help them meet the Maryland-specific requirements.<sup>74</sup> The state, however, did not provide funding for this purpose.<sup>75</sup> Maryland ultimately adapted an existing process for determining state residency for in-state tuition purposes to provide this documentation.<sup>76</sup>

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### Key takeaway 3

Budgeting for the necessary staff and technology systems is important; states can first explore ways to reduce costs by adapting existing systems before designing completely new ones.

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## Establishing eligibility standards

All states considering issuing driver's licenses to unauthorized immigrants will need to determine eligibility requirements and how applicants can prove that they meet them. Those requirements and list of acceptable documents may be included in the legislative language, or these decisions may be made or expanded through the regulatory process or by the issuing agencies. Jurisdictions also are likely to consider how to handle individuals who have foreign-issued paperwork or none of the generally accepted documents.

### Eligibility requirements and documentation

States have adopted application requirements for alternative licenses that are in most cases parallel to those used for regular licenses. However, some impose additional restrictions or requirements on unauthorized immigrant applicants. In Connecticut, for example, the law states that an unauthorized immigrant who has been convicted of a felony in the state cannot obtain a driving credential.<sup>77</sup> The Colorado and Connecticut statutes require that unauthorized immigrant applicants attest in writing that they will apply to legalize their immigration status as soon as they are eligible to do so.<sup>78</sup>

Because this population may not hold the same types of documentation as do U.S. citizens and lawfully present immigrants, states must determine which they will accept as proof of identity, date of birth, and state residency and to meet other requirements. States also must consider how to handle documents presented in foreign languages and whether to allow exceptions to normal processing when an applicant cannot obtain certain evidence. (See Table 4.) In Colorado, Connecticut, Illinois, Nevada, and Vermont, the acceptable documents were spelled out in the statutory language; in the other states, the specific documents were determined through the

regulatory process or by the issuing agency. California's law required the Department of Motor Vehicles to adopt emergency regulations that would specify the acceptable documents.<sup>79</sup>

To determine what documents would be acceptable, state officials reported that they worked with foreign embassies and consulates to learn about the reliability of various documents. They consulted with community groups to see which are commonly held by the target population in their state. Among the steps that states took:

- California signed a memorandum of understanding with the Mexican government to establish an electronic system to verify Mexican-issued documents in real time.<sup>80</sup> (See the text box "California Working With Mexican Government to Verify Documents," Page 18.)
- Connecticut's Legislature created a working group to review the list of acceptable documentation that was included in the statute and report back to the Legislature.<sup>81</sup>
- Vermont's Legislature held hearings and issued a report that included insights from nongovernmental groups into what documents the state's population of unauthorized migrant workers could access.<sup>82</sup>

States also relied on the experiences of their counterparts that had already issued licenses to the unauthorized population and best practices published by the American Association of Motor Vehicle Administrators.<sup>83</sup>

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## Key takeaway 4

Working with foreign consulates, community organizations, and other experts can help states determine which documents unauthorized immigrants commonly hold and how to verify their authenticity.

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In general, applicants must provide:

- **Proof of identity.** The documents typically accepted as proof of age and identity for regular driver's licenses—such as U.S. birth certificates or U.S. passports—are not available to unauthorized immigrants. Consular identification cards, issued to foreign nationals by the embassy or consulate of their country of origin, are a common substitute, accepted by all 11 jurisdictions issuing licenses to unauthorized immigrants. The most commonly accepted consular cards are those issued by Mexico, Guatemala, and Ecuador. Foreign passports also are accepted by all 11. Some have elected to accept other forms of identification, such as foreign birth certificates, voter identification cards, and certified school records. (See Table 4.) When using these alternative documents, applicants are often required to present two forms of identification.
- **Proof of state residency.** The documents accepted as proof of state residency are often the same for all applicants, including unauthorized immigrants. Commonly accepted proof includes utility bills, lease or mortgage documents, financial institution statements, and credit card statements. To reduce the likelihood that unauthorized immigrants will travel to a state where they do not live in order to get a license, some states have made residency requirements more stringent, requiring that unauthorized immigrants have resided there for a longer period of time than applicants for a standard license. For example, Colorado, Illinois, and the District of Columbia require unauthorized immigrants to show that they have lived in their jurisdictions for a specified period of time, ranging from six months to two years, before they can receive a license.<sup>84</sup> Maryland's statute requires that applicants without Social Security numbers provide proof they filed state taxes for the prior two years, which is effectively a residency requirement.<sup>85</sup>
- **Social Security numbers.** Most unauthorized immigrants do not have valid Social Security numbers.<sup>86</sup> Illinois' law required the secretary of state to adopt rules that designate what is acceptable evidence that an individual

is not eligible for a Social Security number. Those regulations state that individuals must affirm that they are ineligible for one.<sup>87</sup> The District of Columbia's regulations require that applicants state whether they have a Social Security number but are unauthorized or they are ineligible for one.<sup>88</sup> In practice, applicants in both jurisdictions can sign a document declaring that they are ineligible for a Social Security number. California's statute specifies that an individual may attest on the application that he or she is both ineligible for a Social Security number and unable to provide proof of legal presence.<sup>89</sup> In Vermont, unauthorized immigrants must obtain a letter from the Social Security Administration stating an applicant is not eligible for the number.<sup>90</sup> Colorado and Utah's statutes require that individuals provide an Individual Taxpayer Identification Number,<sup>91</sup> an identifier issued by the Internal Revenue Service to allow those without Social Security numbers to file federal taxes.<sup>92</sup> New Mexico allows an Individual Taxpayer Identification Number to be used as well, but applicants using them also must submit a passport or consular card.<sup>93</sup> Connecticut and Nevada do not have additional requirements for individuals who lack a Social Security number.

### California Working With Mexican Government to Verify Documents

In December 2014, the California Department of Motor Vehicles signed a memorandum of understanding with the Mexican Foreign Ministry to verify the documents of Mexican foreign nationals applying for driver's licenses.<sup>94</sup> This action was the result of lengthy communications between the state and the Mexican Consulate.<sup>95</sup> Mexicans are estimated to constitute more than two-thirds of California's unauthorized immigrant population and represent the majority of those likely eligible to obtain licenses.<sup>96</sup>

After the passage of the state's licensing legislation, known as A.B. 60, officials from the Department of Motor Vehicles (DMV) met with representatives from the Mexican Consulate in Sacramento to better understand the issuance and security features of Mexican identity documents. DMV officials visited the consulate and witnessed the production of consular registration cards (known in Spanish as *matriculas consulares*).<sup>97</sup> Satisfied with their security features, the DMV released guidance stating that it would accept Mexican passports, consular identification cards, and voter registration cards as sufficient proof of identity. That meant applicants with one of these documents would not need to provide a secondary form of identification.<sup>98</sup>

To assist the DMV in determining the validity of the documents, the Mexican Foreign Ministry created an online electronic system that provides real-time verification of passports and consular registration cards. Now in use across the state, this system allows issuing agency workers to scan the approved Mexican identity documents and instantaneously receive confirmation of a document's integrity. The system does not provide any personal information about the applicants.<sup>99</sup> Individuals who do not receive instant confirmation proceed to a secondary interview where they must provide a second identification document.<sup>100</sup>

Under the terms of the memorandum, the Mexican Foreign Ministry and the state DMV each are responsible for covering their own costs.<sup>101</sup> The ministry funds the creation and maintenance of the database, while California covers the costs of installing verification scanners in DMV offices.<sup>102</sup>

Table 4  
Eligibility Requirements and Documents Accepted

	Jurisdictions currently issuing licenses to unauthorized immigrants										
	CA*	CO	CT†	DC	IL	MD	NM	NV	UT	VT	WA
Acceptable identity documents											
Consular card	X	X	X	X	X	X	X	X	X	X	X
Foreign passport	X	X	X	X	X	X	X	X	X	X	X
Foreign birth certificate	X			X		X	X	X	X	X	
License from another state	X		X			X	X	X	X		X
Foreign license	X		X	X		X					X
Certified school record	X		X	X		X			X		X
National ID and/or voter card	X		X			X			X		
Other	X	X	X						X	X	X
2 forms of ID always required			X				X	X	X	X	X
2 IDs required without a passport or consular card				X		X					
Documents specified in the statute creating alternative licenses or allowing unauthorized immigrants to obtain licenses		X	X		X			X		X	
Commissioner can approve additional documents	X			X		X	X	X	X	X	X
Offers exceptions processing	X	X							X		X
Requires documents to be translated	X	X	X	X		X	X	X	X		

\* In July 2015, the California Department of Motor Vehicles released new guidance expanding the list of identity documents unauthorized immigrants could use. The department also announced it would stop accepting foreign birth certificates except during secondary review of applications.

† In June 2015, the Connecticut Legislature passed a bill changing the documents accepted for proof of identity and residency. The new law will not take effect until July 2, 2016, and the table reflects current practice.

Source: State issuing agency websites as of April 1, 2015

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### Document translation

Foreign passports and consular identification cards commonly include information in English and the country's native language. However, some foreign government documents accepted by states are issued only in a foreign language, and therefore states should consider translation practices. Eight jurisdictions require that foreign documents be translated into English. Illinois and Vermont do not, and Washington can request that applicants have documents translated if bilingual staff are not able to read and interpret them.<sup>103</sup> Several state statutes creating alternative licenses, as well as New Mexico's law, include these translation requirements. Even if a law expanding eligibility to unauthorized immigrants does not have explicit language regarding translation, existing state statutes

may include translation requirements for foreign documents in general. Some states already had translation policies in place for those who are lawfully present and use foreign documents in their applications for standard licenses.

Regulation of translators varies as well. Six issuing agencies—Connecticut, Maryland, Nevada, Utah, Washington, and the District of Columbia—require that applicants use translators approved by or registered with the agency.<sup>104</sup> Some jurisdictions, including Connecticut and the District of Columbia, mandate that translators be certified by an outside body, such as the American Translators Association or a state certification board, or listed on a state contracting list for translation services.<sup>105</sup> New Mexico requires that applicant-provided translations be certified by a notary public.<sup>106</sup>

Several states noted that unauthorized immigrants can be susceptible to fraud and exploitation in document translation. In states where translators are not well regulated, individuals may misrepresent their actual abilities and provide inaccurate translations. Translators, notaries, and others also may take advantage of the target population by charging large fees when others provide the service for free or a minimal cost.

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## Key takeaway 5

Considering which foreign-issued documents—or which portions of them—require translation and who is authorized to provide translation services is critical when accepting documents in other languages.

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### Exceptions to the Rules

If applicants cannot provide required documentation, at least four states offer or intend to offer special procedures, sometimes called “exceptions processing.”<sup>107</sup> These procedures allow issuing agencies to consider—on a case-by-case basis—alternative documents if an individual cannot meet the specific requirements. The process for exceptions may be included in statute or in the regulatory process, or it may be an already existing procedure.

For example, Connecticut’s statute states that the issuing agency has discretion to accept other *prima facie* evidence of identity,<sup>108</sup> while Colorado’s rules were outlined in the regulations.<sup>109</sup> Exceptions processing is generally used for a limited number of individuals at the discretion of the issuing agency. In Colorado and Washington, these processes are available to applicants for all types of licenses.<sup>110</sup> In California and Utah, the exceptions process can be used only for applicants for alternative licenses.<sup>111</sup>



## Establishing issuance procedures

States make important decisions about how the alternative license population will be served, and these have implications for staffing and technology needs. States have considered how this new customer base will affect current flows and wait times at issuing locations, and they have made decisions on how to balance the needs of current customers with those of anticipated new ones. Among those considerations are where applicants may apply, whether appointments are required, whether applicants will be processed alongside customers seeking other services, whether the licenses will be issued immediately or sent at a later date, and how to deal with potential fraud. The jurisdictions have taken differing paths, often learning from one another.

### Facilities and appointment systems

As states roll out alternative licenses, they need to decide where they will be made available. Nine of the 11 jurisdictions offer these licenses at all issuing agency locations, though the number of facilities can change over time. For example, Illinois took a phased-in approach, first offering the licenses at four locations as a pilot program beginning in December 2013 and then ramping up to all 36 licensing facilities in January 2014.<sup>112</sup> California opened four new driver's license processing centers to handle all first-time applicants by appointment or walk-in service.<sup>113</sup> The state doubled its standard 45-day window for the process to allow customers to schedule appointments up to 90 days in advance; it also extended Saturday office hours by appointment at 60 issuing agency locations.<sup>114</sup>

While most states accommodate new applicants at all locations, others have chosen to limit the number of facilities offering alternative licenses. New Mexico initially issued licenses to unauthorized immigrants in all of its field offices but recently limited that to 14 out of 69 facilities in response to a drop in demand.<sup>115</sup> The state also has an office in Albuquerque that serves foreign nationals exclusively.<sup>116</sup> To keep program costs down, Colorado initially offered alternative licenses at five of its 55 facilities.<sup>117</sup> In early 2015, the Division of Motor Vehicles (DMV) reduced that to one office after the Joint Budget Committee denied a request to access collected licensing fees to offset unanticipated costs.<sup>118</sup> Starting in February 2015, unauthorized individuals could only apply for driver's licenses at the Denver Central Driver License Office, which temporarily stopped accepting new appointments to process its current queue.<sup>119</sup> However, after subsequent budget negotiations in March 2015, the DMV expanded the number of issuing offices to three locations, including Denver, Grand Junction, and Colorado Springs. As of June 2015, the issuing agency once again had begun scheduling appointments at least 90 days in advance for these locations.<sup>120</sup>

Many states have implemented appointment systems to manage the anticipated demand for alternative licenses, although such provisions are not included in the statutory language. Appointments can help issuing agencies avoid long wait times and create a steady, staggered flow of applicants for initial licenses and then renewals. In some cases, this practice allowed issuing agencies to use existing staff to provide service to an expanded customer base. Six states and the District of Columbia require that unauthorized immigrant applicants make



appointments to apply for a license, while Utah and Vermont recommend them.<sup>121</sup> Nevada does not use an appointment system, though the state initially experienced high volume and long lines.<sup>122</sup>

Based on the number of appointments an issuing agency is equipped to offer and the estimated eligible population, some states predict that it may take months, or even several years, to issue licenses to all who want them. Officials said that appointments had been booked far in advance. For example, in September 2014, Illinois reported that 149,000 applicants had scheduled appointments through March 2015.<sup>123</sup> As of August 2014, the District of Columbia said that all available appointments were booked through June 2015.<sup>124</sup> In California, as of Jan. 2, 2015—the first day licenses were issued—more than 9,000 people had scheduled appointments for new licenses under the 2013 law.<sup>125</sup>

In Connecticut, which began issuing licenses on Jan. 2, 2015, the issuing agency allows for a maximum of 1,000 testing appointments a week. Applicants could begin requesting appointments for the written test on Dec. 1, 2014. That first day, the website received 16,000 hits and 6,500 people made appointments within the first 15 hours.<sup>126</sup> As of Jan. 6, 2015, about 31,000 people had signed up, creating a waiting list for testing appointments over nine months long.<sup>127</sup>

Issuing agencies considering such systems need to decide whether appointments will be booked over the phone, online, or both and may need to hire or shift personnel to handle the demand. While a booking system can streamline the process, staff should anticipate being needed to resolve scheduling issues and ensure access. One frequent concern is that individuals or groups sometimes book multiple appointments. This may be done by members of a community trying to assist one another, or perhaps by certain people attempting to profit by offering immigrants pre-booked appointments for a fee. States can reduce instances of multiple bookings by requiring that individuals provide identifying information when scheduling an appointment and by only allowing applicants to attend an appointment made in their name.

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## Key takeaway 6

Creating appointment systems can help manage the flow of applicants and provide a means to communicate requirements so that applicants arrive prepared. States also need to be able to handle the demand for appointments, monitor scheduled appointments for potential problems, and resolve issues that arise.

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## Testing, issuance, and renewal

Driver testing is an important part of the issuance process. Applicants must successfully complete a written test to demonstrate knowledge of the rules of the road and a driving test to demonstrate proficiency behind the wheel. Several states reported that applicants for alternative licenses had difficulty passing the written test and often needed several attempts to pass.<sup>128</sup>

As licensing programs grow, states are gradually expanding the number of languages in which they offer knowledge tests. Still, allowing an interpreter for the written or the road test is still uncommon. Connecticut's law is the only one that specifies that written knowledge tests must be made available in the language spoken at home if Census Bureau estimates show that is the native language of at least 1 percent of the state's population.<sup>129</sup> Officials in Connecticut note that the written test is now available in five languages other than English.<sup>130</sup> California administers the knowledge exam in 32 languages;<sup>131</sup> sample tests are available for study in 11, including less common languages such as Armenian, Tagalog, Farsi, and Russian.<sup>132</sup>

Similarly, the District of Columbia offers the written test in 14 languages.<sup>133</sup> Colorado, Maryland, and Nevada give the written test in only English and Spanish, although customers can use interpreters if the test is not offered in their native language.<sup>134</sup> Maryland is the only state that allows applicants to use a state-approved interpreter during a road test.<sup>135</sup>



By implementing an online document guide as part of the process of scheduling an appointment, Maryland was able to realize a high rate of success in applicants arriving with proper documentation.”

Phil Dacey, manager, legislative and external affairs, Maryland Motor Vehicle Administration

All 11 jurisdictions issue licenses from a central office. (See Table 5.) The documents are created in a secured, centralized facility and distributed by mail, as opposed to over the counter at the time of application.<sup>136</sup> To comply with the REAL ID Act, states ensure the physical security of locations where licenses are produced, as well as the security of the materials and papers used to produce them.<sup>137</sup> The act recommended that states use a centralized issuing facility.

Renewal procedures for alternative licenses vary. Illinois requires individuals to reapply for a new license every three years but does not require retesting. In some states, individuals must appear in person to renew their licenses. Currently, Vermont and the District of Columbia are the only jurisdictions where an alternative license may be renewed online or by mail. In New Mexico and Washington, where only one type of license is available, unauthorized immigrants follow the same renewal procedures as do other license holders. Three states had not finalized renewal procedures at the time this research was conducted.

## Fraud

Because they cannot obtain U.S. government-issued identity documents and Social Security numbers, some unauthorized immigrants may have previously used false identities, false addresses, or fraudulent documents to obtain driver’s licenses for which they were not eligible. When those people apply for alternative licenses, the previous use of fraudulent documents often surfaces. States issuing alternative licenses should consider procedures for identifying and treating earlier fraudulent behavior while determining under what conditions a valid alternative license can be issued.

Facial recognition technology, already widely used in licensing agencies, helps identify applicants who have obtained driver’s licenses in the past using a different name, address, or Social Security number. Anyone identified in this way as having multiple licenses may be investigated and penalized.

Issuing agencies already have procedures in place—unrelated to unauthorized immigration—to identify and penalize fraud, and employees are trained to recognize and detect fraudulent documents. Most states have fraud investigation procedures within the issuing agency, and suspected violations can be reported to criminal investigators or prosecutors under specific circumstances. That generally holds true for investigating earlier use of fraudulent documents by unauthorized immigrants.

Sanctions for fraud range from fines to suspension of driving privileges. In Illinois, individuals are encouraged to tell the internal fraud division if they previously used a false name, Social Security number, or other identifying information.<sup>138</sup> Fraud investigators then interview these applicants to confirm their true identity. The state suspends licenses attained with fraudulent documents for one year and requires that applicants pay a \$70 reinstatement fee.<sup>139</sup>

## Key takeaway 7

Processes for handling applicants who have used fraudulent documents to obtain driver's licenses in the past should be considered. Current fraud procedures may be adequate, or issuing agencies may need a separate system for alternative license applicants.

Table 5

## License Issuance Procedures

Many similarities, some key differences

	Jurisdictions currently issuing licenses to unauthorized immigrants										
	CA	CO	CT	DC	IL	MD	NM	NV	UT	VT	WA
Central issuance	×	×	×	×	×	×	×	×	×	×	×
Available at all issuing locations	×		×	×	×	×		×	×	×	×
Appointments required	×	×	×	×	×	×	×				
Knowledge exam in other languages	×	×	×	×	×	×		×			
English and Spanish only		×				×		×			
Interpreter permitted	×	×				×		×			
Interpreters allowed for the road test						×					
Driver manuals in other languages	×	×	×	×	×	×	×	×	×	×	×
In-person renewal only			×					×	×		
Online or mail renewals permitted*	N/A	N/A		×		N/A	×			×	×
Laws contain confidentiality provisions	×	×						×			

\* Information not available as of time of publication for California, Colorado, and Maryland.

<sup>†</sup> Michael Smith, director of operations, Vermont Department of Motor Vehicles, personal communication, Sept. 29, 2014.

Source: State department of motor vehicle websites as of April 1, 2015, unless otherwise noted

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## Outreach and education

All jurisdictions reported that public outreach and education are essential elements of successful implementation. Still, few included cost estimates for outreach and public education efforts in initial fiscal notes or reported that they had received funding for these efforts. States said they benefited from working with community partners to craft messages and maximize information awareness, and from providing culturally and linguistically appropriate information in multiple languages.

### Informing the immigrant community

Outreach is needed to educate the public about changes in licensing laws and about eligibility requirements and application processes. Issuing agency representatives said that in some cases the community needed to be educated proactively about basic components of driver's license exams that might be unfamiliar to those who grew up outside the United States. These include requirements such as the need to pass separate knowledge and driving tests. Outreach also can help warn potential applicants about consumer fraud, raise awareness about exploitation risks, and offer guidance on how to avoid becoming a victim.

Illinois and Nevada reported that applicants for alternative licenses often proved less prepared for the written examination than the road test. Nevada had a higher than 80 percent failure rate on the written test, noting that many people may not have been aware that a written test was required. However, these initial reports of high failure rates subsided after a period of time.<sup>140</sup> In addition, community outreach and education efforts helped issuing agencies share information about their confidentiality policies, which could be an important concern to unauthorized immigrants. (See the text box "Confidentiality" on Page 27.)

“ Have a plan in place to deal with consumer fraud. This program is aimed at a demographic that is already vulnerable. Unscrupulous agencies like some driving schools, tax attorneys, even supposed community advocates have found ways to charge applicants exorbitant fees for things that should be free. They have charged applicants for booking appointments for them, helping to sort out documents, translating, and even for borrowing a car to use for the road tests.”

Lisa Grau, director of the Temporary Visitor Driver's License Program, Illinois secretary of state's office

States use a range of communications tools to inform communities about the new licenses. For example, representatives of the District of Columbia’s Department of Motor Vehicles appeared on Spanish language radio shows.<sup>141</sup> Vermont used Facebook and other social media to reach the general public.<sup>142</sup>

The Illinois secretary of state’s office used its existing mobile units to conduct outreach, provide initial consultations on documents, and educate applicants about the process.<sup>143</sup> Connecticut has a “train the trainer” program that allows issuing agency staff to educate community leaders about the requirements and application process with the expectation that the new “trainers” will pass the information along to the community.<sup>144</sup>

### Working with trusted community partners

Unauthorized immigrants often fear communicating directly with a government agency because of concerns that their names and other personal information will be shared with federal immigration enforcement officials.<sup>145</sup> To reach potentially fearful applicants, several issuing agencies said, they worked with community-based organizations, churches, foreign consulates, and other groups with strong ties in immigrant communities to disseminate information about new driver’s license provisions. In many cases, these organizations had been active in the legislative process that resulted in the new laws and were poised to communicate information to their communities.

Working through trusted local organizations gave issuing agencies access to the communities that they might not have achieved on their own. Because most states did not budget for outreach and education, issuing agencies viewed working with these organizations as a cost-effective way to get information to potential applicants.

#### California Cities Promote Driver’s License Law

In Los Angeles, the mayor’s Office of Immigrant Affairs works with the California Department of Motor Vehicles and local communities to conduct outreach and provide information about the state’s new driver’s license law.<sup>146</sup> Joined by representatives from the DMV, the police department, and foreign consulates, Los Angeles has conducted license forums in neighborhoods with large immigrant populations. It plans to convey information about the application process through public service announcements, bus advertising, social media, and its network of 72 public libraries.<sup>147</sup> Other California localities, including Santa Clara County and San Francisco, also planned to conduct public education and outreach.<sup>148</sup>

## Confidentiality

Unauthorized immigrants applying for driver's licenses express concern about whether information included in their applications will be used for immigration enforcement purposes. Most issuing agency officials who were interviewed stated that their job is to issue licenses to eligible applicants, not to enforce immigration laws.

Under the federal Driver's Privacy Protection Act of 1993, employees of state motor vehicles departments are prohibited from disclosing personal information (name, address, Social Security number, and telephone number) obtained from a motor vehicle record, except under specific conditions.<sup>149</sup> But the law also spells out that such information can be used "by any government agency, including any court or law enforcement agency, in carrying out its functions."<sup>150</sup>

Law enforcement agencies commonly use driver's license records in their work. There have been reported instances in which license information was shared with immigration enforcement officials or in which immigration authorities sought information from records of license-issuing agencies. For example, in 2014, news accounts reported that U.S. Immigration and Customs Enforcement obtained from the Maryland Motor Vehicle Administration the addresses of specific people who were later apprehended.<sup>151</sup>

In 2014, federal immigration officials took an unauthorized immigrant into custody in Illinois after that person applied for a driver's license. The man had an outstanding order of deportation. Federal authorities learned about him because he reported that he had previously obtained a license through fraudulent means. His personal information had been entered into the state's Law Enforcement Agencies Data System, where it was flagged by federal officials.<sup>152</sup>

At the same time, some state privacy or driver's license laws prohibit issuing agencies from disclosing personal information to law enforcement. Several state licensing statutes include specific provisions regarding disclosure of immigration records and the use of alternative licenses for immigration enforcement purposes. For example:

- Nevada's statute says that the director of the Department of Motor Vehicles "shall not release any information relating to legal presence or any other information relating to or describing immigration status ... for any purpose relating to the enforcement of immigration laws."<sup>153</sup>
- Colorado's law does not include provisions regarding sharing information about immigration status. It does, however, specify that immigration status violations are federal offenses, and it prohibits state and local police officers from using an alternative license as a basis for arrest for immigration violations.<sup>154</sup>

Continued on the next page

- California’s law includes similar protections, saying a license “shall not be used to consider an individual’s citizenship or immigration status as a basis for an investigation, arrest, citation, or detention.”<sup>155</sup> As amended in 2014, the law also prohibits the issuing agency from disclosing information about an applicant’s eligibility for a Social Security number. It says that documents submitted by applicants to prove identity, name, residency, or authorized presence are not public record and cannot be disclosed “except when requested by a law enforcement agency as part of an investigation.”<sup>156</sup> In addition, the law prohibits government officials from discriminating against someone because he or she holds an alternative California license. The law says that any employer or entity that discriminates against someone who presents an alternative driver’s license is in violation of the California Fair Housing and Employment Act.<sup>157</sup>

Still, these provisions do not prohibit federal immigration agents from accessing state driver’s license records. Information is not widely available about how federal agencies obtain state license records, what details are available to them, and what limits states can place on this access.

## Translation of study manuals and outreach materials

States recognized the need to translate driver manuals and public outreach materials into the languages commonly spoken by potential applicants. All issuing jurisdictions provide driver manuals in English and Spanish. California, the District of Columbia, Illinois, and Washington make theirs available in additional languages to reflect prominent populations. Vermont’s issuing agency links on its website to a manual translated into Spanish by an external, community-based organization.

States also provide outreach materials with guidance about the issuance process, as well as practice knowledge exams, in languages other than English. Illinois has translated its materials into the top four languages spoken in the state—Spanish, Polish, Chinese, and Korean.<sup>158</sup> The District has outreach materials in six languages. Many states are continuing to expand the availability of materials in additional languages.

### Key takeaway 8

Proactively educating and informing target populations are critical to their awareness and preparedness. Issuing agencies can work with trusted community-based organizations and produce culturally and linguistically appropriate materials to extend their reach into immigrant communities.

## Conclusion

Each of the 11 jurisdictions that have decided to issue driver's licenses to unauthorized immigrants has taken its own path from enacting law to issuing licenses. As this report shows, they make many significant decisions when designing and implementing license programs.

State decisions about how license laws are implemented take place at various points—in the legislature, the regulatory process, or in agency policy. The choices that states make shape the efficiency of their systems and the number of people ultimately licensed. We found wide variation in how the jurisdictions:

- Estimated scope, including the size of the target population, and therefore the anticipated costs and revenue of expanding licensing to a new group of people.
- Set eligibility requirements and determined which documents can be accepted as proof of meeting them.
- Created issuance procedures to serve the public and issue documents.
- Provided outreach and information to potential applicants.

Still, despite this variation—which is expected across states with different legislative procedures, institutional administrative structures, and community contexts—we also found important shared insights and experiences that can help guide states considering such license laws. (See Appendix B.)

Critical among them is the need to plan. Decisions taken by legislators and administrators alike shape the planning environment that involves everything from estimating the affected population to assessing and accounting for the needs of issuing agencies to achieve successful programs (key takeaways 1 to 3). Officials can use available expertise—from other states, community experts, and foreign consulates—in designing their programs to be attentive to the specific needs of target populations and to provide service alongside existing workloads (key takeaways 4 to 7). And finally, no new program for a previously unserved population can be successful unless the target groups know how they can access it (key takeaway 8).



## Appendix A: Timeline of state actions related to driver's licenses

- Massachusetts and Missouri passed the nation's first driver's license laws in 1903, and since 1954 every state has required drivers to be licensed.<sup>159</sup> In 2013, approximately 212 million drivers were licensed in the United States.<sup>160</sup>
- In 1993, California was the first state to explicitly prohibit unauthorized immigrants from receiving driver's licenses.<sup>161</sup> Arizona followed in 1996.<sup>162</sup>
- By 2002, half of the states did not explicitly require proof of lawful status.<sup>163</sup> However, in many, the combination of identification and state residency requirements, along with requirements to provide Social Security numbers, resulted in de facto ineligibility for most unauthorized immigrants.<sup>164</sup>
- In the 2000s, nearly all remaining states changed driver's license laws to explicitly require proof of lawful immigration status.
- In May 2004, Tennessee began issuing a "certificate of driving" to eligible unauthorized immigrants that was marked "For Driving Purposes Only, Not Valid for Identification."<sup>165</sup> The law replaced a 2001 law that allowed unauthorized immigrants to obtain regular state licenses. But the state stopped issuing certificates of driving in February 2006 after media reports of federal investigators finding evidence that applicants from out of state used fraudulent documents and bribed state workers.<sup>166</sup> In May 2007, Tennessee passed a new law creating temporary driver's licenses for noncitizens legally in the U.S. on temporary visas. Temporary licenses are valid for identification purposes.<sup>167</sup>
- In 2005, Congress passed the REAL ID Act, and the president signed it into law. REAL ID-compliant states can issue alternative licenses to unauthorized immigrants and others who are not eligible for, or do not want, a REAL ID-compliant license. These alternative licenses are not recognized as identification for certain official federal purposes.<sup>168</sup>
- In 2005, Utah began issuing distinctive driving privilege cards to unauthorized immigrants who meet other eligibility requirements.<sup>169</sup> By 2011, unauthorized immigrants could obtain regular licenses only in New Mexico and Washington and driving privilege cards in Utah.
- In 2013, eight states (California, Colorado, Connecticut, Illinois, Maryland, Nevada, Oregon, and Vermont) and the District of Columbia passed laws creating distinctive driver's licenses that could be issued to applicants whose status does not make them eligible for a regular license.<sup>170</sup> Oregon's law was repealed by ballot initiative in November 2014. Delaware and Hawaii enacted new driver's license laws in 2015.

## **Appendix B: Methodology**

This report catalogs program implementation and licensing procedures in states where driver's licenses are available to unauthorized immigrants. To obtain insights into the planning and issuance process, the immigration and the states project collected information from several sources, including state statutes, accompanying fiscal notes, state budgets, information disseminated by issuing agencies, and news articles. The team also conducted interviews with issuing agency staff members from 10 states and the District of Columbia. Information gathered from these interviews was summarized and sent to the interviewees via email for confirmation. We received confirmation from nine of these jurisdictions. The Maryland Motor Vehicle Administration replied to inquiries via email. Pew staff conducted supplemental interviews with additional state and local public officials, as well as immigration policy organizations with expertise on driver's license laws and policies. Interviews were conducted in the summer of 2014, before California and Connecticut started issuing their licenses.

Key takeaways represent considerations or practices that were common to several states, were unique approaches to target populations, or were reported by states to be of particular importance for establishing alternative licenses or increasing issuance efficiency.

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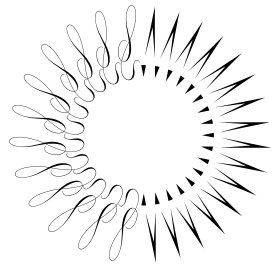
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