

# Driver Licensing And Identification Card Issuance ACTION/ISSUE STATEMENT

POL-14

DMVJPM

## Short Description:

Modifications to DL and ID Card Applications in Implementing Legal Presence Legislation

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## Decision Issue:

Whether DMV should, in implementing the new legal presence requirement, modify its applications for driver's licenses (DL) and identification cards (ID Cards), such that the applicant is required to indicate their status by marking one of several statuses provided on the application.

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## Impact and Challenges:

The outcome of this decision would impact all applicants for driver's licenses. If it is decided that the application should be modified, then all applicants will be presented with the question of whether or not they need to complete the legal presence portion of the application. In such a case, it would be best if the application contained an explanation of which applicants would be required to provide this information.

If it is determined that the application should not be modified, then all applicants will be spared the decision of whether or not and how to complete the legal presence questions.

If it is decided that the application should be modified, in order to prevent confusion, it will be necessary to provide information (preferably on the application, which today is very limited in space) that clearly identifies who must complete the legal presence information. It will also be necessary for Customer Service Center (CSC) personnel to be prepared to assist those customers who are subject to the requirement to complete the legal presence portion of the application.

It is important to note that, generally, changes to DMV's DL/ID Card application must be pre-approved by the U.S. Department of Justice, in order to ensure compliance with Motor Voter requirements.

In addition, the application already asks applicants to note if they are a citizen, for purposes of registering to vote. Because voter registration laws prohibit duplicate information on the DMV portion of a "motor-voter" application and the voter registration portion of an application and because the voter registration portion will require a person to indicate if they are a citizen, issues regarding compliance with motor voter laws may be presented if an applicant is required to provide legal presence status on the DMV portion of the application. In addition, asking additional questions regarding citizenship or other legal presence status may cause confusion and impact an applicant's decision of whether or not to register to vote.

It has generally been the practice of DMV to only require information on the application which is required by statute, either as information that must be contained on the application or as certifications that must be obtained from the applicant. Because the new legislation does not explicitly require collection of legal presence status on an application, nor does it require an applicant to certify as to legal presence, to place these questions on the application would seem to contradict agency practice.

It should also be noted that not requiring applicants subject the legal presence requirement to provide status information on the application may hinder investigations or prosecutions for fraud in the application process, if it is later discovered that the applicant has attempted to misrepresent or actually misrepresented their status.

(It is not possible to quantify the fiscal impacts associated with this issue. If the application is modified, then it is logical to conclude that CSC staff will be required to take additional time with customers in order to provide instruction on completing the legal presence question.)

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**DMV Recommended Decision:**

DMV recommends that the DL/ID Card application not be modified to collect information concerning an applicant's status in the United States, due to the many issues associated with modifying the application, including requirements imposed by motor voter laws and the U.S. Department of Justice, the difficulty in communicating to applicants whether or not they are subject to the legal presence requirement and therefore need to provide the information, silence of the new legislation concerning collection of this information on the application and inconsistency with the agency's previous practices.

(It should be noted that DMV will modify the portion of the application reserved for agency use, to record information concerning the documents provided as proof of an applicant's legal presence, as is currently done for proof of identity and residency documents.)

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**DMV Commissioner's Signature**

**Date**

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**Panel Recommended Decision:**

The panel agreed with the above recommendation with one abstention.

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**Panel's Signature**

**Date**

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**Secretary's Recommended Decision:**

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**Secretary's Signature**

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**Date**

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**Governor's Recommended Decision:**

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**Governor's Signature**

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**Date**