

7 FAM 1430 DRIVER'S LICENSES

*(CT:CON-159; 03-07-2007)
(Office of Origin: CA/OCS/PRI)*

7 FAM 1431 INTRODUCTION

(CT:CON-159; 03-07-2007)

Consular officers interact with state, local and foreign authorities, U.S. citizens/non-citizen nationals and foreign nationals about driver's licenses in a variety of contexts. Many inquiries focus on whether it is possible to drive a motor vehicle in one country if a driver has a license issued in another country. Some inquiries pertain to International Driver's Permits (IDPs) or licenses. In recent years, several countries have asked posts if the United States will consider entering into bilateral agreements or arrangement on reciprocal recognition of driver's licenses. This subchapter provides general guidance about these issues, but also discusses the issue of border security, now that driver's licenses and identification are being given serious scrutiny in the United States. For guidance on identity and U.S. passports see 7 FAM 1320.

7 FAM 1432 AUTHORITIES

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a. Laws:

- (1) U.S. law regarding the issuance of driver's licenses is generally reserved to the individual U.S. states. However, the REAL ID Act of 2005 (the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109-13, 119 Statutes at Large 231, 302 (2005)(codified at 49 U.S.C. 30301 note) set standards for issuance of state driver's licenses, and personal identification cards, if they are to be accepted by federal agencies for official purposes. States have three years from the date of enactment of the statute to comply with REAL ID Act requirements. In order to aid in the implementation of the statute, the Secretary of Homeland Security is establishing regulations with the consultation and assistance of the Secretary of Transportation and the U.S. states. Those regulations will be codified at 6 CFR Part 37. (See 7 FAM 1433.)

(The REAL ID Act repealed Section 7212 of the Intelligence Reform and Terrorist Prevention Act of 2004 (Public Law 108-458).)

- (2) A driver's license means a motor vehicle operator's license as defined in 49 U.S.C. 30301(5). A Personal Identification Card, also issued by many states to non-drivers means an identification card as defined in 18 U.S.C. 1028(d)(3).

b. Treaties:

- (1) **Multilateral:** The United States is a party to two multilateral treaties regarding roads and transport. See Treaties in Force on the Department of State Internet page to confirm whether the host country is a party to these treaties.
 - (a) Convention on the Regulation of Inter-American Automotive Traffic (1943); 61 Stat. 1129; TIAS 1567; 3 Bevans 865. Article VI of this Convention provides that "Every motor vehicle operator before admission to international traffic shall have such driving license as may be required by the laws of his State or such as may have been issued by any political subdivision thereof having legal authority to issue driving licenses. In the event that no such driving license is required by his State or any political subdivision thereof, a special international driving license such as is specified in Article XIII shall be valid." Article XIII of this Convention provides that "a special international driving license may be required for each operator admitted to circulation in any individual State party to the Convention, if the State so elects." (See 7 FAM 1436.)
 - (b) Convention on Road Traffic (1949); 3 UST 3008; TIAS 2487; 125 UNTS 22, United Nations (UN) under Databases/Treaties. This Convention provides for reciprocal recognition of driver's licenses issued in the other's territory. Article 24 of the Convention provides authority for the U.S. Department of State to empower certain organizations to issue International Driving Permits (IDPs) to those who hold valid U.S. driver's licenses. The Department has designated the American Automobile Association (AAA) and the American Automobile Touring Alliance as the only authorized distributors of IDPs. (See 7 FAM 1436.)

NOTE: The REAL ID Act, Public Law 109-13, 119 Stat. 231, 302 (2005) (codified at 49 U.S.C. 30301 note) and its implementing regulations currently under development (6 CFR Part 37) provide for the establishment of standards regarding driver's licenses that will be accepted as identification by federal agencies for official purposes. As currently envisioned, this will require foreign nationals who wish to obtain a U.S. REAL ID-compliant state

driver's license to produce specified proof of identity and lawful presence in the United States. The provisions of Public Law 109-13 and its implementing regulations as currently envisioned do not contravene the provisions of the two multilateral treaties regarding roads and transport to which the United States is a party. Any host country questions regarding this subject should be directed to CA/OCS/PRI (ASKPRI@state.gov) which will coordinate with the Office of the Legal Adviser (L) and the Economic and Business Affairs bureau (EB) in formulating a response.

- (2) **Bilateral:** There are **no bilateral treaties** between the United States and any country on reciprocal recognition of driver's licenses.
- (3) **The United States Is Not A Party To:**
 - (a) Hague Convention on the Law Applicable to Traffic Accidents, (1971);
 - (b) U.N. Convention on Road Traffic, (1968); or
 - (c) The Agreement on the Adoption of the Inter-American Manual on Traffic Control Devices for Streets and Highways, (1979).

7 FAM 1433 BORDER SECURITY, DRIVERS LICENSES AND IDENTIFICATION

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- a. The REAL ID Act of 2005, Public Law 109-13 requires the federal government to set standards for issuance of state driver's licenses, and personal identification card that can be accepted by a federal agency for official purposes.
- b. **Implementing Regulations:** The Secretary of Homeland Security is in the process of establishing requirements to aid in the implementation of the Real ID Act. The regulations are the product of consultation with the Secretary of Transportation and the States. Regardless of the establishment of these regulations, States must meet the requirements of the Real ID Act within 3 years of the date of the enactment of the statute (May 11, 2008) in order to have its license accepted by a Federal agency for an official purpose. The Secretary of Homeland Security may grant to a State an extension of time to meet the requirements if the State provides adequate justification for noncompliance.

7 FAM 1434 CHANGES IN STATE LAWS

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- a. Nearly all U.S. state laws about driver's licenses have changed since the September 11, 2001 terrorist attacks on America at the World Trade Center Towers in New York City and the Pentagon in Washington, DC. The document requirements to obtain a driver's license in most states are complicated combining aspects of proof of identity, proof of residence, and federal immigration law. Information about initiatives in individual U.S. states is available at the National Conference of State Legislatures home page. Another source of information about state level initiatives is the American Association of Motor Vehicle Administrators (AAMVA). The Bureau of Diplomatic Security (DS) represents the U.S. Department of State on the AAMVA's Foreign Reciprocity Working Group.
- b. Fourteen (14) states require that a license expire at the same time as an immigrant's visa; 3 states denote non-citizenship in the driver's license; and 26 states require, to use the Department of Homeland Security's (DHS) term, a "lawful presence."
- c. In 2003 alone, 119 proposals were introduced in 40 states on the subject of issuing driver's licenses to aliens.
- d. U.S. embassies and consulates abroad and CA/OCS receive inquiries from foreign governments regarding changes in U.S. law and policy as it pertains to aliens in the United States. Inquiries may be directed to CA/OCS/PRI at ASKPRI@state.gov.

7 FAM 1435 RECIPROCAL ARRANGEMENTS WITH U.S. STATES

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- a. **Bilateral Agreements or Memoranda of Understanding (MOUs) about Driver's Licenses:** Foreign governments frequently raise this issue with posts and the Department. In addition, posts inquire about the feasibility of the United States or individual U.S. states entering into MOUs or other arrangements with host countries regarding driver's license reciprocity. Posts cannot enter into negotiations on behalf of the United States with foreign governments regarding agreements about driver's licenses absent specific authorization (see 11 FAM 720, 11 FAM 730, 11 FAM 750).
- b. **Germany and Canada Examples:** The German Ministry of Transport, in conjunction with the German Länder, approved exemptions to the practical (road) and theoretical (written) tests for license holders from various U.S. states. See the U.S. Embassy in Germany's Internet home page, "Living in Germany – American Driver's License," for information about this practice. There are similar arrangements between Canadian provinces and some U.S. states.

- c. **U.S. Constitution Compact Clause:** The Compact Clause of the U.S. Constitution (Article 1, Section 10, Clause 3) provides that "[n]o State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power . . ." To avoid possible conflicts with the Compact Clause, the reciprocal recognition in the Germany and Canada cases was based on parallel unilateral policy declarations or determinations rather than written agreements..

7 FAM 1436 INTERNATIONAL DRIVING PERMITS

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- a. Although many countries do not recognize U.S. driver's licenses, more than 150 countries outside of the United States honor international driving permits (IDPs). IDPs function as an official translation of a U.S. driver's license into 10 foreign languages. These licenses are not valid in an individual's country of residence. IDPs are not intended to replace valid U.S. state licenses and should only be used as a supplement to a valid license. Article 24 of the United Nations Convention on Road Traffic (1949) authorizes the U.S. Department of State to empower certain organizations to issue IDPs to those who hold valid U.S. driver's licenses.
- b. **Authorized by the U.S. Department of State to Issue IDPs:** The Department designated the American Automobile Association (AAA) and the American Automobile Touring Alliance (AATA) as the only authorized distributors of IDPs.
- c. **How to Apply for an International Driving Permit:** Before departing the United States, travelers can obtain an IDP at a local office of one of the two automobile associations authorized by the U.S. Department of State (L/T and EB): the American Automobile Association (AAA) and the American Automobile Touring Alliance through the National Automobile Club. AAA's application form also provides an address where applications can be sent from overseas.

NOTE: Federal Trade Commission (FTC) Consular Alert on IDPs:

- FTC Targets Sellers Who Deceptively Marketed International Driver's Permits over the Internet and via Spam

FTC Consumer Alert About Unauthorized Sellers of International Driver's Licenses

7 FAM 1437 DEPARTMENT OF STATE ACTION

OFFICES

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- a. CA/OCS maintains a Road Safety feature on the Consular Affairs Internet home page. All Consular Information Sheets include material about road safety.
- b. L/T (Treaty Office) maintains information about the international treaties to which the United States is a party regarding driver's licenses, transport and road safety.
- c. EB/TRA (Bureau of Economic and Business Affairs' Transportation Affairs division) handles overseas land transport policy issues.
- d. DS/OFM/VTC/V is a member of the American Association of Motor Vehicle Administrators Subcommittee on Driver's Licenses and Foreign Reciprocity. For additional information see the DS DMV Program (Department of Motor Vehicles) internet page.
- e. OES/IHA (Bureau of Oceans and International Environmental and Scientific Affairs Office of International Health Affairs coordinates U.S. policy on international road safety.

7 FAM 1438 U.S. DEPARTMENT OF STATE MATERIALS ON DRIVER'S LICENSES AND ROAD SAFETY

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Department of State materials about international and domestic drivers' licenses and road safety include:

- (1) Bureau of Consular Affairs - Road Safety feature (CA Internet Page);
- (2) Fraud Prevention Programs – Alerts (FPP Intranet Page); and
- (3) Bureau of Diplomatic Security - Personal Security--At Home, On the Street, While Traveling – Car Jacking; Personal Security for the American Business Traveler Abroad – Driving Abroad.

7 FAM 1439 UNASSIGNED