

Making Our De Facto National ID Card Work

by David Simcox

On flights taken since the September 11 terrorist attacks, I have been both impressed and discouraged by the thoroughness of the pre-flight inspections of passengers' ID documents. Passengers have had to show a photo ID at three and sometimes four different check points before boarding. The ID of choice for more than eighty-five percent of them was the state driver's license or state ID card. Most impressive was the meticulousness of airline employees in reading the names on the document, usually aloud, and comparing faces to photos.

Discouragement came from seeing so much diligence devoted to what has become our de facto, but deeply defective, national ID card – the driver's license. Few familiar with licensing were shocked that the hijackers had little trouble getting licenses, or that other plotters later detained had obtained commercial drivers' licenses issued under a more demanding federal law, and with them authorization to drive the rolling bombs that hazardous material rigs can become.

Daunting Scope and Disparity

There are lots of reasons why the ID we most depend on is not now up to its task as a basic, multi-use identity document. More than fifty different states and territories issue them, usually through a multiplicity of political subdivisions. More than 4500 offices throughout the U.S. process drivers' licenses. If mobile service units are included, the number approaches 5000. A majority of the states now permit most renewals, replacements, and name changes to be done on-line, by mail, or by telephone.

The scope of the licensing system is mind-numbing. In 2000, there were over 190 million licenses outstanding

in the country and an estimated ten million non-driver ID cards. The fifty states and District of Columbia process a total of about fifty-five million new, renewed, or duplicate licenses each year. Often, approval authority is delegated to county clerks of the nation's 3043 counties. In rural areas, many lack the tools, experience, training, time or, often, inclination to assess the welter of birth certificates, out-of-state or foreign licenses, immigration documents, and proofs of state residency applicants submit. Nearly forty states issue licenses "over the counter," allowing no time for careful background checks.

Lenience Pays

As in so many regulatory processes in this country (such as the overseas visa function), it is usually more expedient for officials to approve licenses promptly, not deny them. Longer waiting times necessitated by careful examinations lead to political pressures and complaints from applicants ("the consumers"). Licenses mean revenue for the states and their often cash-strapped counties. Income and customer service have taken priority over the reliability of the product.

Easy issuance of licenses can also mean income for the poorly-paid clerks that staff the licensing offices in many states. Corruption is likely in dealing with such a high-value commodity. An official of the American Association of Motor Vehicle Administrators (AAMVA) remarked that a clerk making \$18,000 a year or less can, by "expediting" just one commercial driver's license a month, "earn" \$12,000 more a year. In many states, cottage industries of corrupt notaries and lawyers have grown up around major licensing centers, often tied to Department of Motor Vehicles (DMV) employees on the take on the inside.

The unrelenting demand for rapid production can force even the conscientious DMV clerks to cut corners. California in the 1990s mandated authentication of social security numbers (SSN) of applicants through the Social Security Administration (SSA). Investigations of California DMV offices in the late 1990s revealed that

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this step had often been skipped to save time.

Professional immigrant traffickers seek out lenient, venal, or incompetent issuing centers and route their clients to them. Several states no longer require applicants to be residing in the country legally; many states require legal residence in that state but demand no proof. Most states require the SSN from applicants, but a growing number will accept instead a certificate of "non-eligibility" from SSA. Tennessee now is satisfied with applicants' sworn statements that they have no social security number, waiving the confirmation of non-eligibility from SSA. As investigations following September 11 revealed, most states readily issue licenses, which can be valid up to eight years, to foreign visitors on tourist or business visas that permit a stay in the United States of only 90 days. In California, home to nearly half of all illegal immigrants, a bill awaiting final approval to facilitate drivers' licenses for illegal aliens was held up by Governor Davis immediately after the September 11 tragedy, but is still under discussion.

Tougher Standards: A Little Late, but Welcome

Since September 11, a number of states have begun to tighten their procedures for issuing licenses to non-citizens. A fairly common remedy is to require non-citizen applicants to seek their licenses at a few designated and specially equipped issuing offices in each state. Other states impose a waiting period, or authorize provisional licenses for only two or three months, before granting the permanent license. A number of states have argued for assignment of special Immigration and Naturalization Service (INS) foreign document experts to each state to examine questionable foreign documents, or, alternatively, a special hotline from the states to INS document forensics for the same purpose. INS has frustrated some state licensing agencies by refusing to confirm by telephone the legal status of foreign applicants. INS claims its hands are tied by privacy legislation.

Led by Florida, some states have moved to limit the validity of the license to the alien's period of authorized stay in the country. A number of state motor vehicle administration (MVA) officials now argue that their agencies not be required to issue licenses at all to many categories of short-term visitors to the United States – a policy already in effect in New Jersey. Administrators

note that visitors can use their foreign drivers' licenses as provided in United Nations International Road Safety Conventions. Foreign licenses from signatory countries can be used for up to one year in many U.S. jurisdictions if properly certified and translated.

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most publicized turnarounds since 9-11. These two states had become the Meccas of non-citizen license seekers on the east coast. They did not require social security numbers and asked for little proof of state residency. The *Charlotte Observer* reported in November that North Carolina in the previous four years had given drivers' licenses to 388,000 applicants who lacked SSNs. In Virginia, two of the September 11 hijackers got licenses with phony residence affidavits attested by a bribed bystander who was himself an illegal immigrant. The two newly minted "Virginia residents" then used their new licenses to gain licenses for two more hijackers by falsely vouching for their resident status in Virginia.

Far more are harmed by such sloppiness than the issuing states themselves. Drivers' licenses issued in any state, however recklessly, can readily be exchanged for licenses of more demanding states, and often are. These episodes are stunning illustrations of the driver's license's vast power as a breeder document.

Wisconsin has dropped the INS form I-94, a photo-less card given to arriving foreigners, as an acceptable identification document. Other states are considering following suit, or will accept the I-94 only as part of a valid foreign passport, duly stamped with a valid U.S. visa and entry confirmation. Other states are reconsidering their acceptance of such insecure, forgery-prone documents as baptismal certificates and voter-registration cards.

It would be comforting but untrue to state that the move toward greater documentary rigor applies to all states. Some are still drifting toward even greater accommodation of immigrants and foreign visitors. Wisconsin and North Carolina are among several states that accept Mexican documents, such as voter ID cards, military service cards, and consular IDs, as proofs of identity. While improvements since September 11 have so far been slow and uneven, many states will have their first opportunity to legislate changes since September 11

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when legislatures convene in early 2002.

Diversity and its Many Weaknesses

Despite AAMVA’s appeal for more uniformity, the formats, security features, and data elements of state licenses still vary wildly. There is a hodgepodge of mutually incompatible formulas for assigning unique numbers to licenses. While state-assigned numbers can carry much useful data, their variety and complexity reduce their usefulness to untrained examiners, such as airline staffers, and complicate operation of databases.

A survey of the latest (2001) versions of motor vehicle operators’ licenses¹ of the twenty-one states with greatest immigrant settlement shows the following:

- None require the SSN on the face of the license; and it is an option in only seven states.
- Unique alphanumeric identifiers vary in length from five characters up to fifteen characters, ranging in type from simple sequential uncoded numbers to coded systems combining Soundex of names, dates of birth, place of issuance, and “check digits.”
- Only three states (TN, NV, and NJ) still do not have any machine-readable data storage on their licenses. Ten states have magnetic stripes, and sixteen have bar codes. Eight states’ licenses carry both magnetic stripes and bar

codes.

- Only six of the twenty-one states have fully digitized the photos, signatures, and fingerprints (if any) on licenses. Only four now include fingerprints. Some forty percent of New Jersey licenses carry no photo at all, though the state is finally moving to make the photo a standard item.
- Anti-copying, anti-alteration features also vary widely: Ten states use holograms. Most have some form of security laminate or special bonding on the card to prevent disassembly. A number are protected by “black light” hidden images or optically variable devices, such as color or visibility changes at varying sight angles. Now used by seven of the states is the secondary or “ghost” photo of the bearer, to discourage photo substitution, usually overlaid with data or an image. California is one of very few to use microprinting on its license. A few states use “portrait” or vertical-format licenses to flag underage drivers.
- Periods of validity can vary widely from state to state from as little as one year to a maximum of eight. The usual original issuance validity is four or five years, but validity of up to ten years is under consideration. Some states require no personal visit for renewals and duplicate licenses.
- Color coding of such variables as license category or driver attributes and conditions is far from uniform among states.

Needed: A Secure License Equal to its Many Responsibilities

September 11 showed the U.S. needs a reliable and secure national ID, and we need it right away. For alien terrorists and criminals, the forged or fraudulently obtained driver’s license facilitates boarding airliners, getting jobs, and renting motor vehicles and small aircraft. Terrorists in control of hazardous material trucks are a truly monstrous security threat. Licenses also help foreign intruders to buy weapons, open bank accounts and receive money from abroad, enter training programs, and obtain for themselves and others civil documents that support their falsified identities. The heavy political pressures on many states by illegal aliens to grant them licenses underscore the document’s status as the preferred national identifier. We can debate the constitutionality of a national ID card, but we already

have one in the driver's license. It doesn't work very well, but it is widely enough trusted to be dangerous.

But for all its faults, the driver's license/ID card is our best prospect for upgrading our ID system quickly. The issuing offices, personnel, and much of the data needed for rapid enrollment are already in place. Americans already are conditioned to pay for their licenses and to renew them regularly with updated photos. There are 4500 field offices across the country available to document all Americans. States have the records that will facilitate enrollment of or grandfather in some categories of citizens, such as senior citizens, government officials, and military officers. The new cards could be phased in over time as new licenses, renewals, and replacements are issued. Other options considered for a national ID – such as re-issuance of the social security card as a high-tech, tamper-proof, biometric document – involve fewer supporting networks. They will be costly and slow to install, though worth pursuing as an alternative for the long haul.

Many legislators recognized the vast security role of the driver's license in the 1996 Illegal Immigration Reform and Immigrant Responsibility Act when they mandated consideration of certain uniform standards for state licenses and universal use of the social security number (SSN). While the law was later killed by a coalition of privacy and states-rights interests, now is a good time to reopen the drive.

The lessons of September 11 make it technically and politically feasible for Washington to mandate uniform standards for a machine-readable driver's license, requiring an authenticated SSN (in the file, if not on the license itself), or an alternative coded unique number, digitized personal data, including biometrics, and a central "all-driver" file accessible to all state and federal law-enforcement agencies. It is reasonable to ask that the driver's license also show the citizenship or immigration status of the bearer and any conditions on the alien's presence.

Much of the planning has already been done to move toward greater uniformity. For several years, the AAMVA has had a uniform identification working group and in 1996 released a "Model Program for Uniform Identification." The study has extensive recommendations on every aspect of the licensing process, including biometrics, verification, security, acceptability of documents, electronic data transfer, and

record keeping. Uniformity should apply as well to such decisions as alien proof of residency and eligibility for licenses. Since September 11, AAMVA has pledged to work with Homeland Security, the Department of Justice, and other federal authorities in standardizing the licensing process and linking data bases, while leaving issuing authority with the states.

Better ID, Better Government

To be remembered above all is that technological wonders do not repeal the rule of "garbage-in/garbage out." The enrollment of scores of millions in a new secure system will require painstaking scrutiny of documents and applicants and the rapid exchange of information among state and federal agencies to authenticate birth certificates, immigration papers, and other basic but easily falsified breeder documents.

Better identification will have benefits far beyond road safety and border control. The chief of North Carolina's MVA erred when he argued in defense of the state's lax requirements that "the license is about safety, not immigration." The driver's license and state ID card have become instruments of social control in matters that have nothing to do with road safety. States now use the driver's license system to track sex offenders, penalize truancy and drug abuse, identify organ donors, prevent underage drinking, punish child-support deadbeats, and encourage draft and voter registration. Immigration control and national security are no less important national interests.

The states need and deserve federal financial support and leadership in creating and securing a license equal to its many responsibilities. •

¹ Source: National Notary Association: 2001 ID Checking Guide; State MVA Web Sites.