

HOW IMMIGRANTS ARE AFFECTED BY RECENT CHANGES TO THE NORTH CAROLINA DRIVER'S LICENSE LAW



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Earlier this year, the North Carolina General Assembly made several important changes to the North Carolina law on obtaining driver's licenses. Most of the changes went into effect on May 23, 2007. These changes have significant implications for non-immigrants residing in North Carolina who wish to obtain an initial driver's license or to renew their driver's license. To read the full text of the Session Bill amending the Statute, [click here](http://www.ncga.state.nc.us/Sessions/2007/Bills/Senate/HTML/S1026v4.html) or go to <http://www.ncga.state.nc.us/Sessions/2007/Bills/Senate/HTML/S1026v4.html>.

A non-immigrant applying for a North Carolina driver's license must provide proof of identity and proof of residence in North Carolina, just like any other applicant for a driver's license. However, as noted above, the North Carolina law on driver's license issuance has recently been amended to specifically address certain issues pertaining to non-immigrants.

Following is a summary of the current version of the North Carolina law on obtaining a driver's license:

- **International Driver's License Not Accepted:** According to the North Carolina Division of Motor Vehicles website, North Carolina law enforcement officials do not honor an International Drivers License. If you are stopped by the police, you must be able to show a valid driver's license from another State (assuming you are not a resident of the State of North Carolina).
- **Social Security Number Requirement:** North Carolina General Statute Section 20-7(b)(1) requires an applicant for a North Carolina driver's license to present a valid Social Security Number. An individual taxpayer identification number (ITIN) is not acceptable. If the applicant does not have a valid Social Security number, then a driver's license of limited duration can be issued upon proof of valid documentation issued by the U.S. Government that demonstrates the applicant's legal presence in the United States. This means that, even if you do not have a valid Social Security number, a non-immigrant can obtain a driver's license (assuming all other requirements are met) if he or she can demonstrate proof of legal status in the United States.

- **Proof of Legal Presence Does Not Require a Valid Visa:** An applicant who does not have a valid Social Security number can demonstrate legal presence in the United States without showing a U.S. visa. Remember, a visa is the document issued by the United States Department of State at an Embassy or Consulate outside the United States which is used to travel to and enter the United States. The visa itself does not prove legal presence in the United States. A non-immigrant can travel to the United States and be admitted as a non-immigrant. Typically, upon admission, he or she receives a Form I-94 which specifies the person's name, non-immigrant visa category and a period of authorized stay. The period of stay on the Form I-94 indicates how long the non-immigrant can legally stay in the United States. Even if the non-immigrant's visa expires after entering the United States, he or she can still demonstrate legal presence in the United States. One of the most common ways is to show a valid, unexpired Form I-94. It is important to note that some DMV officials are unaware that the law has changed in this regard and may still require a valid visa. These officials need to be reminded that the previous version of the law required a valid visa, but the current version of the law only requires proof of legal presence when a valid Social Security number cannot be presented. Our office will typically provide a current version of the new law to our clients who are planning on applying for a North Carolina driver's license.
- **License May Have Limited Period of Validity:** The driver's license expiration date for a person who presents documentation that he or she is in the United States legally for a period of limited duration (for example, as a non-immigrant) will be tied to the expiration date of that person's legal presence in the United States. For example, if a non-immigrant presents a Form I-94 that expires in two years, then the expiration date of the driver's license will match the Form I-94 expiration date. Presentation of a valid Social Security card stamped with "Not Valid for Work without DHS Authorization" or other similar language will likely lead DMV officials to inquire as to the person's legal presence in the United States.
- **Foreign Passport May Be Used as Form of Identification in Limited Circumstances:** In addition to proving residence in the State of North Carolina, the applicant must also prove his age and identity. There are a variety of documents specified by the North Carolina Division of Motor Vehicles which can be used to prove the applicant's age and identity. One of those specified documents is an unexpired foreign passport. A foreign passport can be used to prove the applicant's age and identity only if the passport is unexpired and contains a USCIS stamp, such as an I-94 stamp or an I-551 stamp. If the foreign passport meets this requirement, it will count as two documents (thus meeting the requirement for two forms of identification).
- **Driver's License Can Be Cancelled for Person Not Legally Present in the United States:** North Carolina General Statute Section 20-15 states the North Carolina Division of Motor Vehicles (DMV) can cancel a person's driver's license if the

DMV determines that the person is no longer authorized under federal law to be legally present in the United States.

- **Despite The Changes, Immigrants Still May Face Difficulties In Obtaining Driver's Licenses:** Despite the recent changes to North Carolina's driver's license laws which were meant to provide clear guidance to immigrants and DMV officials in processing driver's license applications, there are still reports of immigrants who meet the new requirements having difficulty in obtaining a driver's license. The reason is that certain DMV officials are still applying the prior law which required a valid, unexpired visa from most immigrants. Additionally, the DMV officials are not adequately trained to understand and interpret immigration documents which may prove a person's legal presence in the United States. Essentially, the current law requires DMV officials to interpret U.S. immigration laws for which they have not been trained. There have been reports of qualified immigrants being denied by one DMV office yet approved by another DMV office. Therefore, an immigrant may wish to take a current copy of the law with him or her, and perhaps even a letter of explanation from an immigration attorney to demonstrate how the immigrant should qualify for a North Carolina driver's license.

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