



Driver's Licenses for All: Ready, Set, Go!

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On Oct. 1, 2023, the “Driver’s Licenses for All” (“DLFA”) law takes effect in Minnesota. The DLFA law allows all Minnesotans to apply for and obtain, if eligibility requirements are met, a standard class D driver’s license, instruction permit or standard identification card, irrespective of immigration status. The law is good public policy all around. It will help to improve public safety and reduce fear in our communities.

The new law is a long-time coming, and a return to what the law used to be in Minnesota. Since 2003, many immigrant, faith, business, public safety, and agricultural groups have worked together to get us to this point again. Among them are VLN partner organizations such as COPAL (“Communities Organizing Latino Power and Action”), Unidos-MN, Iglesia Piedra Viva UMC, the Immigrant Law Center of Minnesota among others. Minnesota joins the ranks of at least 18 other states with similar laws.

Community groups are working around the clock to inform immigrant communities about the law to facilitate participation and prevent people from being scammed. Even so, misinformation circulates, how specific situations will be addressed under the new law are case-specific and may remain unknown, there is apprehension about how the law will be applied, and there are capacity, language, and technology barriers in the application process.

What does this law mean for our non-citizen clients? It is important to note that many foreign-born persons, such as naturalized citizens and lawful permanent residents, have always been eligible to apply for and obtain Minnesota drivers’ licenses. This will not change.

For other non-citizens who were eligible to apply for and obtain a Minnesota Driver’s license prior to October 1, 2023, the main thing that will change is that the validity of their driver’s licenses will not be tied to the validity of an immigration status.² Thus, a person in this situation

¹ Some of the content is adapted from resources available through the Immigrant Law Center of Minnesota available at www.ilcm.org.

² This issue typically affected persons with temporary statuses like Temporary Projected Status (TPS), DACA, and others.

will not be in a situation in which their driver's license expires during the pendency of renewing an immigration status and will only need to renew the license at the regular four-year interval.

For those non-citizens who were prescribed from applying for a driver's license before, largely due to not having a social security number, the new law will apply equally to all persons in Minnesota, and the requirements will be the same.³

Even so, the application process is not an easy one to navigate, and the system is not yet ready to process an increased number of drivers' license applicants. The reality is an applicant *will* need to have valid proof of identity and pass both written and driving tests to get a class D license. The process *will* require time, patience, and legwork. Applicants are likely to get confused and *will* need competent and trustworthy help to navigate the system. As service providers, we can help to facilitate access to this process for our clients.

How can we help? Here are some tips:

TIP #1: Assessing Risk—To Apply or Not to Apply

Thousands of people in Minnesota now face the decision of whether to apply for a Minnesota class D driver's license or an identity document (ID). Most applicants will not have issues that put them at high risk by applying; and having a driver's license will actually reduce a person's risk because they will now be able to drive with a license. We can put many fears to rest by providing clients with accurate information. For example, rumors circulating that licenses and identity documents will be marked to distinguish immigrants from citizens are untrue. They will not be marked. And, while a Social Security Number (SSN) is not required to obtain a standard Class D driver's license, the application process requires applicants to list a valid social security number if they possess one—even if it is not valid for work purposes. If they do not have one, they must sign and attest to not having one.

Community members want to know whether the Department of Public Safety (DPS) will report an applicant's information to Immigration and Customs Enforcement (ICE). The new law contemplated this concern and built two tiers of privacy protections into the law. Admittedly, the law has some limitations with respect to privacy protection, and chains of sharing information are hard to control, nonetheless, the DPS is *not allowed* to share any information about an individual's citizenship or immigration status except to share it with the Minnesota Secretary of State for voting registration purposes, where required by law with certain government agencies, or when ordered to do so by a court. If the DPS is required by law to share information, then there is a certification process requiring the recipient agency to certify it will not share the information with ICE.⁴

In practical terms, most non-citizen clients do not have or use fake documents, but some do or have used them in the past to obtain driving, work or identity credentials. Persons applying for a license will need to use their actual identity documents and should disclose all previous names used to obtain a prior license or identity document. The DPS informs practitioners that it will merge all records for the same person into one record without criminal sanctions. As attorneys and representatives of the legal system, we should advise clients not to use or carry with them, and desist to use, falsified or fake documents or the documents of another person.

³ While the law applies equally to all, there are different requirements to meet based on age.

⁴ Adapted from March 28, 2023 – Frequently Asked Questions: Driver's Licenses for All -- English, Immigrant Law Center of Minnesota, available at <https://www.ilcm.org/drivers-licenses-for-all/>.

For persons with a criminal record, or those for whom driving privileges were revoked in the past, or with unpaid traffic tickets, or for persons who have used the documents of U.S. citizens,⁵ they may want to first discuss their situation with either a public defender, or an immigration attorney or both. This will help the person to assess whether they are eligible for a driver's license, if they need to pay a fine, etc., and if so, how, or whether they have issues that affect their immigration situation. Be on the lookout for workshops provided by local legal aids offices and/or community-based organizations with expertise in these issues for help resolving tickets or multiple record issues.⁶

TIP #2: Applying, Proving Identity and Translations

Minnesota Driver and Vehicle Services (DVS) has information about office locations, testing schedules, and fees for driver's license applications available on the Minnesota DVS website. An applicant can complete the application process in person at a DVS location or an official DVS-partner location. Applicants can also complete parts of the application process, such as the written test, at official DVS-partner community organizations. Applicants must be sure to complete their own application and that they are submitting their application at a DVS location or an official DVS-partner. Applications must be submitted by the individual who is applying for the license.⁷

Applicants will need to prove their identity by providing, generally, two official unexpired documents (see approved primary and secondary documents' lists), with an accompanying certified translation to English for foreign language documents. Approved documents include a foreign passport, foreign birth certificate, foreign adoption certificate, and certain immigration filing and approval notices, *inter alia*. Some foreign documents will not require a translation (e.g., passports, consular-issued identification cards) because they are typically issued in two languages, one being English. Approved translators are ***not*** limited to those on the Minnesota Department of Public Safety Approved Translation Vendors list, but the translator ***must*** meet the requirements spelled out on the MDPS's Certificate of Translation Form.

Persons who are asylum applicants or have asylum should consult with an immigration attorney prior to renewing any expired national identity document, including passports, of their country of origin. Persons who are unable to obtain official documents to prove their identity may be able to use the variance process to apply for the driver's license.

TIP #3: Access Issues

Granted, the rolling out of the new law requires tremendous effort and organization. Unfortunately, there may be significant access issues for persons who live in Greater Minnesota,

⁵ Declaring oneself to be a U.S. citizen as a non-citizen, including the use of identity documents of a U.S. citizen, at any time, may carry severe immigration consequences for any non-citizen, even those who are now lawful permanent residents. The use of fake documents also may have immigration consequences. It is best to seek advice from an immigration attorney before pursuing immigration benefits or relief when this situation exists.

⁶ Some lawyers practice in both criminal and immigration law. Others will only practice in one or the other. The type of lawyer to consult will depend on the type of legal issue. Some community-based organizations may offer help with resolving and reporting multiple records.

⁷ From March 28, 2023 – Frequently Asked Questions: Driver's Licenses for All -- English, Immigrant Law Center of Minnesota, available at <https://www.ilcm.org/drivers-licenses-for-all/>.

and for persons with Limited English Proficiency and literacy in their native language, including English. The process is doable, but not necessarily easy.

Testing center locations are sparser the further out of the Twin Cities you go. And the Knowledge Test, while available in 12 languages if taken by computer (as opposed to orally), is not available in other languages and may pose a barrier to persons not accustomed to using a computer. Also, the old version of the driving manual is available in only four languages (English, Hmong, Somali, Spanish) and translations of the most updated version are pending release.

Among the sites available to take the Knowledge Test, appointments are often unavailable. And appointments are only listed 30 days out. Applicants will have to be persistent in checking the online system regularly to sign up and those who live in the Twin Cities will need to be willing to travel to a testing site more than an hour away. The system is designed for online access, which makes it more difficult for persons with limited access to technology. While the written test is available in different languages, literacy and knowledge of online testing will affect a person's successful access to the application process.

To help with these types of access issues, there is an option for persons to take the Knowledge Test orally in a group setting with an interpreter. There must be a group of three to seven testers who sign up, and there are currently only three locations which administer this group testing: Anoka, Eagan, and downtown St. Paul. Visit the DVS webpage for more details: <https://dps.mn.gov/divisions/dvs/Pages/group-class-d-knowledge-testing.aspx>

Also, there is a process for a private entity—including community groups—to sign up to become a third-party proctor to administer the test in English. Third-party proctors may charge a fee of up to \$10.00 to administer the Knowledge Test. Clients may become confused by this \$10.00 as DVS testing centers do not charge the fee (see below).

Applicants may want to attend local classes available on how to apply for a driver's license and/or form study groups to prepare for the Knowledge Test.

TIP #4: Preventing Scams

The State's system to issue identity and driving credentials is complicated. It shares certain functions between Department of Vehicle Services stations operated by state employees, driver's license agents that can operate on a municipal level or are contracted out to a private party, and in some cases, third party proctors (e.g., to conduct oral driving tests in lieu of a written driving test). Who offers what service, where and in what language depends.⁸

⁸ Department of Motor Vehicles (DVS) offers both Knowledge Exams in ASL, English, Hmong, Karen, Russian, Spanish, Somali and Vietnamese, and the Skill Exam (driving test). There is no fee until the 3rd test for the Knowledge Test. They also offer the Knowledge Exam orally at certain offices. The location where tests occur depends on whether it's the Knowledge, Skills or Group or Oral Knowledge Test. Most tests need to be booked online. On the other hand, Driver's License Agents (municipal or private) are more limited in the services they provide and the languages the services are provided. Additionally, they may charge up to \$10.00 per Knowledge Test, but a third test could cost \$20.00. And some of these sites are not amenable to first-time applicants who require a photo because the sites do not have photo capabilities.

Folks needing help may fall for scams. Look out for people being charged more than \$10.00 for the Knowledge Test, which is free for the first two through state DVS stations. Municipal or private Driver's License Agents may charge up to \$10.00 to administer the test.⁹ Other types of fraud include persons charging hundreds of dollars and offering to take the Knowledge Test. You may report fraud to the Attorney General's office or county and city attorneys.

To avoid fraud situations, it is best to refer folks for help to one of the community-based organizations engaged in community education (see some on list below or at the DPS website).

As the law rolls out, it will be important to stay-tuned for updates issues by the DPS and/or through local legal aid or community-based offices working on this issue.

Below you will find more information and resources about the new law.

Resources and Links:

Driver and Vehicle Services – Minnesota:

<https://dps.mn.gov/divisions/dvs/Pages/drivers-license-for-all.aspx>

<https://onlineservices.dps.mn.gov/EServices/> / (The author recommends going directly to the tab “DL For All” first to review the six steps to get a driver's license before trying to navigate this website.).

Immigrant Law Center of Minnesota: <https://www.ilcm.org/drivers-licenses-for-all/>

Unidos-MN: <https://unidos-mn.org/licencias>

COPAL: <https://copalmn.org/en/drivers-licenses-for-all/>

Other links: <https://www.revisor.mn.gov/laws/2023/0/Session+Law/Chapter/13/>

⁹ In limited situations a Driver's License Agent may charge \$20.00 to administer the test when it's the third test.