

**Attachment C**  
**National Conference of State Legislatures (NCSL):**  
**Position Regarding Driver's License Policy**



## **Goals for State-Federal Action**

### **NCSL Resolution Adopted by the Transportation and Law and Criminal Justice Committee from the Fall Forum of the NCSL Standing Committees, December 2004, Savannah, Georgia**

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#### **Identity Security, Driver's Licenses and State Identification Cards**

*(Joint policy with Law and Criminal Justice Committee)*

States traditionally have maintained authority over the issuance of driver's licenses and state identification cards. The principal purpose of the driver's license is to certify individuals to operate a motorized vehicle and to secure automobile insurance. Driver's licenses also are used for numerous other purposes, including proof and verification of identity and as documents to qualify for a variety of commercial, financial, educational, governmental and other services. The driver's licensing process and related regulatory activities are crucial for maintaining public safety, bolstering security, and reducing fraud and counterfeiting. States have renewed their scrutiny of driver's licenses and have enacted and considered legislation to strengthen application processes, require expanded proof of identity, modify qualifications for license and identification card approval, deter fraudulent activity, and bolster privacy protections.

Although states retain authority over the driver's license application and issuance processes, Congress recently passed the Intelligence Reform and Terrorism Prevention Act of 2004 to overhaul the nation's intelligence systems. This legislation included federal standards for state issued driver's licenses and personal identification cards that the states must enact or face the refusal of federal agencies to accept these documents for any official purpose. Although NCSL opposed this federal mandate, NCSL worked with Congress to ensure that state elected officials are included on a negotiated rulemaking committee, which will devise the federal standards, to apply the standards only to newly issued documents, and to require the Secretary of the Department of Transportation to identify the cost of the federal standards on states prior to their implementation.

NCSL is committed to preserving the congressional intent of the Act by ensuring that state legislatures are represented on the negotiated rulemaking committee. NCSL strongly believes that the negotiated standards should provide states with maximum flexibility within the framework of the federal Act to implement the standards. NCSL encourages the Secretary of Transportation to exercise his authority under the Act to grant states extensions of the effective date if they make reasonable efforts to comply, and NCSL is committed to working with Congress and the Secretary to delay the implementation of the Act if Congress fails to appropriate funds to implement the standards. NCSL further encourages the Secretary to exercise his authority under the Act to include individuals from organizations that represent civil liberties and privacy interests on the negotiated rulemaking committee.

Although there is a need to strengthen the driver's license application process and to address inadequacies, states remain best positioned to accomplish these goals. States have direct experience with driver's license formatting, identity verification procedures and systems, customer service, qualifying and insuring drivers, testing potential and licensed drivers, and driver training. State laws and regulations guide these activities. States also are mindful of needs to protect consumers, taxpayers, business concerns and privacy, all of which must be taken into account while enhancing security and public safety. Any federal standards should be narrowly limited to those areas enumerated in the federal Act and should in no way limit the ability of states to innovate to strengthen the integrity of document verification and issuance.

NCSL supports the innovative efforts at the state level to address security concerns with driver's license issuance. Currently, individual states are considering legislative and regulatory actions, interstate compacts, model legislation, intergovernmental agreements, data sharing, standards development through recognized standards-developing entities, and enhanced legislative and executive branch coordination. NCSL will provide organizational support to states as they opt to pursue any or all of these or other avenues to reform. NCSL will oppose any federal legislative or regulatory effort to require states to adopt specific model legislation or participate in an interstate compact.

NCSL believes that the federal government does have a significant role in assisting states with matters regarding non-citizens and their qualification for and use of state-issued driver's licenses and identification cards. States need direct links to verifiable, timely and accurate data regarding status, duration of stay, application for change in status and related information. The expanding number of visas, backlogs on applications for status changes and inability to either access or navigate Department of Homeland Security data systems are among the problems requiring resolution so that states can administer non-citizen applications for driver's licenses and identification cards. Without these changes, states cannot be expected to, nor be held accountable for, providing enhanced security in their driver's license application and issuance processes.\*

This discussion has rekindled debate and concern about the development of a national identification card or national driver's license. NCSL continues to believe that there is no compelling reason to establish such national cards or licenses and will work with Congress and federal officials to ensure that such an establishment is not achieved -- either intentionally or unintentionally -- through legislation, regulation or rulemaking process.

NCSL believes that states must establish a more cooperative working relationship on this issue with the federal government. Therefore, NCSL supports a federal role in providing technical support, highlighting successful models, facilitating discussion and providing necessary funding for changes made at the discretion of the states.

NCSL is opposed to any further federal attempts including coercion or direct preemption, to usurp state authority over the driver's license process or diminish the validity or usefulness of licenses awarded at the state level. NCSL urges the federal government to respect the provisions and intent of the Unfunded Mandates Reform Act of 1995.

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