



The REAL ID Act and NY State Driver's License Policies
A Position Statement by Queers for Economic Justice

Changes in the Driver's License and state ID card policies have disproportionately impacted many communities, including immigrants, transgender people, youth, homeless people, and survivors of domestic violence. In 2001, the New York State DMV commissioner elected to sharply increase the number of identification "points" required for a driver's license from two to six. This means that applicants must show more forms of identification in order to obtain a new or renewed driver's license. Current requirements are so difficult to meet that many people now have expired driver's licenses which they cannot renew. According to the New York Immigration Coalition, in the past two years, 300,000 immigrants in the state could face suspension of their licenses.

Unfortunately, since the passing of the REAL ID Act in May 2005, the barriers to accessing a driver's license, or a non-driver's license identification card, will only continue to increase. The REAL ID Act, part of an emergency-spending bill which authorized \$82 billion in military spending, was passed under the auspices of aid to Iraq and tsunami relief. The aid was considered a high-priority, guaranteeing that it passed easily through Congress. The act contains numerous provisions which will inevitably deprive undocumented immigrants of their right to social benefits and further disenfranchise multiple groups of citizens.

OVERVIEW OF THE ISSUE

Driver's licenses are a basic form of identification used for opening a bank account, applying for a job, applying for insurance, accessing government benefits, boarding an airplane, applying to college, entering public buildings, and cashing a check. The more restraints put on access to state-issued identification, the more people who will no longer be able to legally access public life. Loss of a driver's license impairs basic mobility and hinders economic capacity, as it is the one piece of identification that gives access to so many aspects of daily life.

Not only required to obtain a job, as part of going on a company's payroll, driver's licenses are also required for the daily work of many jobs –including taxis and car services, truck driving and delivery services. This Act will make immigrants increasingly vulnerable to exploitation by company owners who gain significant profits in these services industries. Taxicabs alone yielded \$1.82 billion in fare revenue in New York, in 2005. In the same year, 91% of taxicab drivers were immigrants – who will now have a much more difficult time accessing the driver's license required to legally do their job. In a capitalist country, our federal and state governments are making it increasingly difficult – often impossible – for people to hold basic tools for obtaining a job – tools which have nothing to do with skill level. *[Source: New York City Taxicab Fact Book 2006, Schaller Consulting]*

Currently, the requirements for meeting the 6 points of identification are complex and practically impossible to meet:

- If you do not have a driver's license or learner's permit that has been current within the last two years, the required six points must include a Social Security Card and proof of date of birth – such as an original birth certificate.
- If you are not eligible for a Social Security Card (as is the case for many foreign-born applicants), you must show extensive proof of this, including a recent letter from the Social Security Administration stating such.
- If you are not a US citizen, you must show proof of legal residency for 6 months following your application.
- Other examples of proof of identification which qualify for points from the NYS DMV include: a US passport, OR a foreign passport with certain stamps, a visa and a permanent Resident Card, OR a US Refugee travel document, OR a photo driver's license issued by another state.
- None of these items alone meet the required six points – and a New York pistol permit qualifies for as many points as a driver's license issued by another state.

Though New York State implemented these policies over the past several years, before the passage of the REAL ID Act, the policies are actually already in compliance with REAL ID's new provisions. Because the compliance with the REAL ID Act is voluntary, NYS still has the power to reverse these provisions.

However, one aspect of the REAL ID Act that is new to NYS is the creation of a national database of US residents. One step towards this database is mandating that DMVs (i.e., state agencies) compare their databases with that of the Social Security Administration (a federal agency). When a person applies for a driver's license, their personal information is then compared to the federal Social Security Administration database. This effectively positions state DMVs to act as an arm of US Citizenship and Immigration Services (USCIS, formerly the INS).

Beginning in 2004, thousands of immigrants have received intimidating letters from the DMV, and are now at risk of losing their driver's licenses. These letters are directed at

people who were in fact not required to submit a Social Security number with their application, since they applied before that requirement went into effect, and vaguely claim that there is a problem with the SSN in their file, and ask them to submit an SSN – even if their driver's license has not yet expired. Some letters also allege that their SSN is not valid, and require those people to appear at the DMV within 15 days of receiving the letter, or else face suspension of their license. [Source: *The New York Immigration Coalition*, www.thenyic.org]

The broad effects of this provision of the REAL ID Act have already begun to negatively impact our communities, as New York State has decided to comply with the optional regulations.

IMPACT ON IMMIGRANTS

For LGBT people, one of the only ways to become a legal immigrant is to apply for asylum based on sexual orientation. The REAL ID Act makes applying for political asylum based on sexual orientation even more difficult by giving increased discretionary powers to immigration officers and judges, therefore amplifying the burden of proof on people fleeing persecution. For someone fleeing persecution, it is literally impossible to return to the locale of their torture to collect any materials that a judge has required for proof.

Conservatives and xenophobic political powers have used the REAL ID Act as a mechanism for splitting the solidarity of immigrant communities whose members are struggling for legal residency. For instance, it raises the maximum number of green cards that can be given out to asylees each year, ostensibly decreasing the wait time for thousands of immigrants. However, the law is transparent in its deceptive intentions – the maximum number is not currently reached each year, despite a waiting list of approximately 140,000 people. Lifting the cap is at best a symbolic gesture that does not actually require a change in practices. Further, it does nothing about a minimum number. At the same time, the amount of green cards available each year remains the same. As a result, were the number of asylum green cards distributed to be increased, the number of other types of green cards available would be reduced. This provision of the REAL ID Act is nothing but a divisive tool, seeking to buy support by appealing to those who have already received asylum and are now waiting for green card. It sacrifices those who are applying for asylum and seeking safety from persecution. [Source: *QulR*, www.quir.org]

More and more, the forces of globalization, propelled by the World Bank, the International Monetary Fund, North American Free Trade Association, and the World Trade Organization have been displacing workers in Third World countries such as Mexico and India. As a result, many of these workers are seeking economic opportunities in the United States. Pieces of legislation like the REAL ID Act are tools of preventing Third World immigrants from entering and working legally in the US. This, in turn, maintains the existence of extremely low wage work, on which globalizing corporations thrive.

Increasingly, the immigrant labor force includes transgender people of color. As the US economy increasingly becomes based upon service industries, more and more low-wage jobs are produced. Especially in the informal service sector, such as domestic labor and janitorial services, underpaid service jobs are among the only jobs available to transgender people due to severe employment discrimination. Yet, even within these service industries,

there are still many fields in which it is next to impossible to access employment if one is a transgender immigrant of color. As a result options, options for immigrants of color become fewer and fewer.

The US government and corporations are creating an underpaid, trapped labor force. Meanwhile, federal subsidies to large corporations – also known as corporate welfare – reach \$450 billion every year. This includes international corporations that are based in the US. Yet in February 2006, US Congress passed budget cuts to welfare and Medicaid, and included more stringent requirements for proof of identification. Looking at these federal spending trends in conjunction with each other, it is starkly apparent that the US government is eliminating the possibilities for people to work safely and at a living wage.

At the same time that these forces are working at the federal and global level, organizations such as the Minutemen are working at the local and regional levels as gatekeepers of an increasingly xenophobic and racist state. As many movements working together in coalition, we must consider what past laws and practices in the US that the REAL ID Act harks back to– such as, for instance, the Fugitive Slave Act of 1793, which required people to report the whereabouts of those people they suspected to have escaped from slavery. The Fugitive Slave Act further enabled “slave catchers”, who were hired by slave owners and local officials to find escaped slaves and return them to their owners. More recently, in 2004, the Intelligence Reform and Terrorism Prevention Act authorized 40,000 new beds for detained immigrants, which will triple the current detention system by 2010. The US government and corporations now mutually monetarily benefit from an expanding prison industrial complex, which will continue to grow as lives and behaviors are increasingly criminalized. *[Source: AFSC’s Corrupting Justice]*

IMPACT ON TRANSGENDER PEOPLE

The database-comparison also effectively proscribes changes in gender identity on state and national identification documents for many transgender people. Previously, transgender people were able to change their gender identity on their driver’s license solely by producing a doctor’s statement, and then were able to provide legal identification in daily life that was consistent with their chosen gender. Now, however, the DMV compares its records with those of the Social Security Administration, which requires genital surgery for changing gender identity in the national database. This means that many transgender people who do not have the monetary resources or do not want to undergo genital surgery will no longer be able to access this form of legal identification under their lived gender identity. Because state-issued ID is generally required to apply for or obtain a job, many transgender people risk being involuntarily outed to their potential employers. Furthermore, as there are currently no provisions specifying who may eventually access this national database, transgender people may be outed at any place – from their job to their bank to security guards in an airport. This lack of privacy ignores the reality of the severe discrimination transgender people face. *[Source – SRLP statement against the REAL ID ACT]*

IMPACT ON POOR AND HOMELESS PEOPLE

The REAL ID Act will also severely impact poor and homeless people, especially LGBT poor and homeless people. The federal database that will be created and implemented under the REAL ID Act will require a primary residential address on state identification cards, and will not allow PO Boxes. This residential address requirement will be impossible for homeless people to comply with. In fact, homeless people face serious difficulties in retaining many of the required documents – such as birth certificates, social security cards, and passports – due to the instability in their housing.

A lack of identification documents blocks a person's access to state-funded social benefits such as welfare and Medicaid – benefits which are already suffering from the huge federal budget cuts in February 2006, and which will likely be severely cut at the state level as a result. These budget cuts include new identification requirements for accessing the benefits, including proof of legalized immigration status for non-citizens. Those people unable to provide a state-issued identification card will face even higher barriers to receiving government benefits.

In addition, the City of New York has in recent years introduced more stringent requirements for homeless people to obtain emergency shelter, and lack of identification makes it harder for homeless families and individuals to overcome those bureaucratic obstacles.

RUNAWAY AND HOMELESS YOUTH

As with homeless adults, homeless youth arrive at programs with little or nothing. This includes LGBT youth who have left their family's residence due to abuse based on their sexual orientation and/ or gender identity, and whose parents now reject giving any help.

Essential documents, such as birth certificates and social security cards are not easily accessible either due to parental refusal or because family disintegration has rendered them lost. To even begin the process of obtaining a new set of documents, some form of official identification is always needed. Special provisions are in effect to allow agencies to obtain official documents for youth in the foster care system, including agency letters on behalf of a youth. Identification is often the first step to self-sufficiency for homeless youth especially today where employers are required to have proof of citizenship or legal status on file for each employee (U.S. Department of Justice Form I-9) and where identification is required to open a bank account. The DMV policy therefore is a major impediment for many homeless youth seeking to stabilize their lives and becoming productive citizens of our state.

IMPACT ON SURVIVORS OF DOMESTIC ABUSE

Finally, the required residential address on the ID card ignores the struggles of survivors of domestic abuse, who often conceal their residential address in order to hide from their abuser. There are no regulations regarding who will be able to access this national database – which means that as systems are synchronized, even an id-swipe or credit-card swipe in a grocery store may provide the cashier access to personal records. Furthermore, a victim of domestic abuse may be less likely to report the abuse, for fear that an ID card – or lack of one – may reveal immigration status and/or a lived gender identity.

While the rhetoric behind these anti-immigrant policies is the claim that they will strengthen national security and promote a safer public, the truth is that a national database threatens the safety of many US residents.

By increasing the requirements for state-issued identification, we increase our dependency on the state to validate our lives through multiple forms of required identification and proof of citizenship status. This increased dependency occurs even as the state simultaneously takes away its support in resources-- such as decreased welfare, decreased affordable healthcare, little affordable or free housing, and perpetual reproduction of violent state practices.

RECOMMENDATIONS

Points of resistance to this Act can be clear and direct: the driver's license provisions of the REAL ID Act are voluntary, and currently unfunded by the national government. New York State implemented many of the provisions on its own, before the passing of the REAL ID Act, which makes it even easier to reverse the policy changes.

Immigrant-rights coalitions and organizations, as well as both transgender advocacy groups and economic justice organizations, are calling on New York State to refuse to comply with the suggested, voluntary driver's license provisions of the REAL ID Act. These coalitions and organizations include the New York Coalition for Immigrants' Right to Driver's Licenses, Immigrant Communities in Action, and a coalition coordinated by the Queer Economic Justice Network. These groups are organizing to resist the oppressive practices implemented by the REAL ID Act, and have called for the support of a bill that has been introduced to the NYS legislature, A612a, which would require that the NYS DMV accept forms of ID that are not based on immigration or citizenship status.

The recent changes in NYS's driver's license policies and the passing of the federal REAL ID Act is only part of a larger strategy by conservatives to ultimately create new categories of criminal behavior and open up the lives of immigrants, women, lesbian, gay, bisexual and transgender youth to increased police surveillance and violence. Many more people will be forced into the criminal justice system. Both the federal and state provisions represent the power of an imperialist state to decide who is legitimate and who is illegitimate within this nation-state. The state currently is seeking to protect the economic elite-- this is clearly reflected in the ways the REAL ID Act will disproportionately impact poor, homeless, immigrant, transgender communities and survivors of abuse and violence.

Recommendations:

- New York State legislature should pass A612. However, it cannot stop there, since A612 changes the type of id required, but doesn't lower the number of points.
- The administration of the New York State governor should reduce the proof-of-id requirements back to the previous two points. This change is within their power.
- Social Security numbers should no longer be a requirement for a state-issued identification cards.
- The DMV should immediately stop sending threatening letters to people whose DMV records do not match their records with the Social Security Administration. Drivers' licenses should not be contingent upon citizenship or immigration status.
- We call on the governor of each state, including New York State, to participate in the national movement to reject the REAL ID Act, so that it's full national implementation is halted before 2008.