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Vehicle

Driving While Undocumented: Chapter 524 Allows Undocumented Immigrants to Apply for Driver's Licenses in California

Vallerye Mosquera

Code Sections Affected

Vehicle Code § 1653.5 (amended and repealed); Vehicle Code § 1653.5 (enacted); Vehicle Code § 12800 (amended and repealed); Vehicle Code § 12800 (enacted); Vehicle Code § 12801 (amended and repealed); Vehicle Code § 12801 (enacted); Vehicle Code § 12801.5 (amended and repealed); Vehicle Code § 12801.5 (enacted); Vehicle Code § 12801.6 (amended and repealed); Vehicle Code § 12801.9 (enacted); Vehicle Code § 12801.10 (enacted); Vehicle Code § 12801.11(enacted)
AB 60 (Alejo); 2013 STAT. Ch. 524

I. INTRODUCTION

Prior to Chapter 524, the California Department of Motor Vehicles (DMV) required residents applying for driver's licenses to provide a social security number or "satisfactory proof" of lawful status in the United States.¹ However, in order to be issued a social security number, a person must be either a US citizen² or have lawful immigration status.³ Thus, undocumented residents, who are ineligible for social security cards, were formerly unable to obtain driver's licenses and lawfully drive in California.⁴ Chapter 524 now makes it possible for an estimated two million unlicensed and undocumented immigrant drivers⁵ to obtain driver's licenses.⁶

1. CAL. VEH. CODE § 1653.5(d) (West 2000); *id.* § 12800(a); *id.* § 12801(b).

2. 20 C.F.R. § 422.107(d) (2005).

3. *Id.* § 422.107(e)(1).

4. See Timm Herdt, *California Driver's Licenses for Undocumented Immigrants*

Proposed in New Bill, HUFFINGTON POST (Jul. 7, 2013), http://www.huffingtonpost.com/2013/04/23/california-drivers-licenses-undocumented-immigrants_n_3137572.html?view=print&comm_ref=false (on file with the *McGeorge Law Review*).

5. See *California Bill Would Give Driver's Licenses to Illegal Immigrants*, FOX NEWS (May 30, 2013), <http://www.foxnews.com/politics/2013/05/30/california-bill-would-give-driver-licenses-to-illegal-immigrants/print> (on file with the *McGeorge Law Review*).

6. CAL. VEH. CODE § 12801 (enacted by Chapter 524).

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II. LEGAL BACKGROUND

Since 1994, California has required that an applicant for a driver's license provide his or her social security number (SSN) as a pre-requisite to applying for a driver's license.⁷ In the past two decades, the few plaintiffs that have challenged the legality of the SSN requirement in court have all failed.⁸

Section A analyzes the California cases that have upheld the legality of the prior law.⁹ Section B discusses the more than a decade long history of the California Legislature introducing similar bills.¹⁰ Section C provides an overview of the recent federal requirements that are embodied in the REAL ID Act and their implications for Chapter 524.¹¹

A. Court Challenges to the Social Security Number Requirement

In *Lauderbach v. Zolin*, California residents who could not obtain social security numbers—presumably because they did not have lawful immigration status¹²—challenged the law requiring SSNs as a prerequisite for a driver's license.¹³ The plaintiffs were successful at the trial court level, but the California Court of Appeal for the Fourth District overturned the lower court's decision.¹⁴ The plaintiffs argued that the California DMV policy violated “the equal protection clauses of the state and federal Constitutions,” but the court did not address this question and, instead, found that the DMV did not have an obligation to provide licenses to people without lawful status in the U.S.¹⁵

The court also rejected the plaintiffs' theory that the policy violated the Federal Privacy Act.¹⁶ In its decision, the court noted that the “individuals” whom the Federal Privacy Act protected from having to provide their social security numbers were US citizens, and that, regardless, there is “an exception to the Federal Privacy Act in 42 United States Code section 405(c)(2)(C)(i).”¹⁷ The

7. *Id.* § 1653.5(d) (West 2000); *id.* § 12800(a); *id.* § 12801(b).

8. *See* *Lauderbach v. Zolin*, 35 Cal. App. 4th 578, 582, 41 Cal. Rptr. 2d 434, 437 (1995); *Nowlin v. Dep't of Motor Vehicles*, 53 Cal. App. 4th 1529, 62 Cal. Rptr. 2d 409 (1997).

9. *Infra* Part A.

10. *Infra* Part B.

11. *Infra* Part C.

12. *Lauderbach*, 35 Cal. App. 4th at 582, 41 Cal. Rptr. 2d at 437 (“Although their status is not fully explained, it appears that the majority of those whose immigration status prevents them from obtaining SSNs are not authorized by federal law to be present in the United States.”).

13. *Id.* at 580, 41 Cal. Rptr. 2d at 436.

14. *Id.* at 585, 41 Cal. Rptr. 2d at 439.

15. *Id.*, 41 Cal. Rptr. 2d at 438.

16. *Id.* at 585, 41 Cal. Rptr. 2d at 439; 5 U.S.C. § 552a (2006); *see also* 189 A.L.R. Fed. 455 (Originally published in 2003) (“[T]he Privacy Act of 1974 . . . require[s] federal agencies to follow a code of fair information practices in collecting, storing, and disseminating personal information about individuals.”).

17. *Lauderbach*, 35 Cal. App. 4th at 585, 41 Cal. Rptr. 2d at 439.

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exception allows government agencies to request SSNs “in the administration of any tax, general public assistance, driver’s license or motor vehicle registration law.”¹⁸ The California Court of Appeal for the Fourth District relied on this language to support its holding that a government agency has the right to require a social security number in order to determine an applicant’s identity.¹⁹

Two years later, the legality of the SSN requirement was revisited in *Nowlin v. Dep’t of Motor Vehicles*.²⁰ The plaintiffs here also won at the trial court level, but the Court of Appeals again found that the federal government empowered the DMV with the authority to “require applicants for new and renewal driver’s licenses to provide SSN’s.”²¹ Because of this finding, the court chose not to discuss or consider the legal theories offered by plaintiffs that the requirement “infringe[d] upon their right to travel” and that it “constitute[d] an unlawful search or seizure under the Fourth Amendment of the United States Constitution.”²²

These California appellate court decisions are in accord with the decisions of other states that have upheld policies requiring that DMV applicants provide social security numbers.²³ Moreover, the US Supreme Court has not granted certiorari over any lower court decisions on the matter,²⁴ and federal policy seems to support the SSN requirement.²⁵

18. 42 U.S.C. § 405(c)(2)(C)(i) (2006) (“[A]ny State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver’s license, or motor vehicle registration law within its jurisdiction, utilize the [SSNs] issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law.”).

19. *Lauderbach*, 35 Cal. App. 4th at 585, 41 Cal. Rptr. 2d at 439.

20. *See generally* *Nowlin v. Dep’t of Motor Vehicles*, 53 Cal. App. 4th 1529, 62 Cal. Rptr. 2d 409 (1997) (finding that the Department of Motor Vehicles had the authority to require social security numbers as a prerequisite to obtaining a driver’s license).

21. *Id.* at 1536, 62 Cal. Rptr. 2d at 413–14.

22. *Id.*, 62 Cal. Rptr. 2d at 414.

23. *See* *Dream Act Coal. v. Brewer*, No. CV12-02546 PHX DGC, 2013 WL 2128315, at *7 (D. Ariz. May 16, 2013) (holding that there was no preemption of federal law by denying driver’s licenses to recipients of temporary legal status through the Deferred Action for Childhood Arrivals program because it did not relate to regulating “which aliens may remain in the United States”); *John Doe No. 1 v. Georgia Dep’t of Pub. Safety*, 147 F. Supp. 2d 1369, 1369–70, 1376 (N.D. Ga. 2001) (“The State of Georgia has a legitimate interest in not allowing its governmental machinery to be a facilitator for the concealment of illegal aliens. . . in limiting its services to citizens and legal residents,” and in protecting the “safety of the economy of Georgia.”).

24. *See* Kevin R. Johnson, *Driver’s Licenses and Undocumented Immigrants: The Future of Civil Rights Law?*, 4 NEV. L.J. 213, 219–20 (2004) (stating that there are US Supreme Court decisions that hint at possible legal arguments for overturning these laws, but that the Court has not yet considered a case directly on this issue).

25. *See* 49 U.S.C. § 30301 (202)(c)(2)(B) (2006) (requiring that state agencies issuing driver’s licenses verify that an applicant is a US citizen or lawfully within the country before issuing a driver’s license).

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B. *Prior Legislation: Over a Decade of Unsuccessful Attempts at Driver's License Reform*

The California Legislature has introduced a bill similar to Chapter 524 almost every year since 2000.²⁶ The legislature passed one such bill in 2002, but then Governor Gray Davis vetoed the bill, citing “concerns with the potential national security consequences of identity fraud if it became law.”²⁷ In 2003, the legislature passed a similar bill, and, perhaps due to pressure from Latino and other interest groups, Governor Davis signed this bill.²⁸ However, in an unexpected twist, Senator Gil Cedillo, the bill’s sponsor, worked to have the bill repealed after an onslaught of resistance from community groups and the threat that the bill would be placed on the ballot and ultimately repealed by popular vote.²⁹

Then, Senator Cedillo sponsored a similar bill in 2004 that the legislature passed,³⁰ but Governor Arnold Schwarzenegger vetoed it.³¹ Governor Schwarzenegger echoed the former governor’s public safety concerns: “This bill does not adequately address the security concerns that my Department of Homeland Security and I have. . . .”³²

Subsequent bills that have sought to allow undocumented immigrants to obtain driver’s licenses have been unsuccessful.³³ Yet, the legislature has continued to reintroduce them year after year.³⁴ This legislative persistence could be attributed to the support surrounding the issue from interest groups, particularly from the Latino community.³⁵

26. ASSEMBLY COMMITTEE ON TRANSPORTATION, COMMITTEE ANALYSIS OF AB 60, at 3 (Apr. 22, 2013) (“The issue of allowing the licensure of undocumented immigrants has been considered almost continually by the Legislature since the 1999–2000 Legislative Session.”); Johnson, *supra* note 24, at 232–34.

27. Johnson, *supra* note 24, at 232–33 (“Governor Davis vigorously defended his veto, claiming among other things that ‘[t]he bill I got would allow people for whom there was an outstanding warrant . . . for murder, treason or espionage to get a driver’s license.’”) (citation omitted).

28. *Id.* at 233.

29. *Id.* at 233–34 (discussing how Governor Davis’ opponent Arnold Schwarzenegger opposed the bill during Davis’ recall election with the assertion that it weakened national security, and other opponents “claim[ed] that it was preempted by federal law”).

30. *Id.* at 233.

31. Kimberly Edds, *No Driver’s Licenses for Calif. Illegal Immigrants*, THE WASH. POST (Sep. 24, 2004), <http://www.washingtonpost.com/wp-dyn/articles/A45651-2004Sep23.html> (on file with the *McGeorge Law Review*).

32. *Id.*

33. ASSEMBLY COMMITTEE ON TRANSPORTATION, COMMITTEE ANALYSIS OF AB 60, at 3 (Apr. 22, 2013).

34. *Id.*

35. See Johnson, *supra* note 24, at 234 (“[T]he inability of illegal immigrants to get driver’s licenses has become a major issue in California’s Latino community.”) (quoting a *Los Angeles Times* article by Carl Ingram).

C. Federal Law: The REAL ID Act

The REAL ID Act of 2005 requires that, beginning in 2008, state motor vehicle agencies must verify applicants' US citizenship or lawful immigration status before issuing them a driver's license.³⁶ For those few states that provide driver's licenses to undocumented immigrants, the federal government requires that those driver's licenses or identification cards be easily recognizable as "not acceptable for official purposes."³⁷ Although the REAL ID Act technically went into effect in 2008, the Department of Homeland Security provided extensions to those states that were not in compliance.³⁸

III. CHAPTER 524

Chapter 524 allows undocumented immigrants who are applying for a driver's license to submit an affidavit of their unlawful presence as a substitute for providing a social security number.³⁹ Chapter 524 also expansively broadens the types of documents that allow drivers to confirm their identities and residencies in order to obtain California driver's licenses.⁴⁰ Chapter 524 directs the DMV to create rules regarding the documents that are "acceptable to prove identity," but it also provides examples of the types of documents that will confirm an applicant's identity, including identification cards from another country, "original birth certificate[s]," "home utility bill[s], lease or rental agreement[s], or other proof of California residence."⁴¹ In addition to the specifically listed acceptable documents, Chapter 524 gives the DMV the authority to accept other, currently undefined forms of documentation that it might determine as sufficient to confirm an applicant's identity.⁴²

Chapter 524 explicitly states that an applicant for a commercial driver's license must still provide a social security number.⁴³ Additionally, Chapter 524 requires that driver's licenses issued without a social security number must contain the following language: "This card is not acceptable for official federal

36. 49 U.S.C. § 30301(202)(B) (2006).

37. 6 C.F.R. § 37.71 (2013) ("[S]uch driver's licenses and identification cards [must] (1) Clearly state on their face and in the machine readable zone that the card is not acceptable for official purposes; and (2) Have a unique design or color indicator that clearly distinguishes them from driver's licenses and identification cards that meet the standards of this part.").

38. *Id.* § 37.63.

39. CAL. VEH. CODE § 12801(c)(1) (enacted by Chapter 524) (An applicant who does not have a social security number, and whose presence in the United States is unauthorized, "may sign an affidavit attesting that he or she is both ineligible for a social security account number and unable to submit satisfactory proof that his or her presence in the United States is authorized under federal law.").

40. *Id.* § 12801.9 (enacted by Chapter 524).

41. *Id.* § 12801.9(c) (enacted by Chapter 524).

42. *Id.* (enacted by Chapter 524).

43. *Id.* § 12801(c)(3) (enacted by Chapter 524).

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purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits.”⁴⁴

IV. ANALYSIS

Section A discusses the proponents’ arguments for issuing driver’s licenses to undocumented immigrants.⁴⁵ Section B explains the controversy over the requirement that the driver’s licenses issued to undocumented immigrants be distinguishable from other driver’s licenses.⁴⁶ Section C compares California’s Chapter 524 to the approaches taken in other states.⁴⁷

A. Why Provide Licenses to Undocumented Immigrants?

1. Safety Concerns

Assemblymember Luis Alejo, the author of Chapter 524, promoted the legislation as a way to increase motorway safety.⁴⁸ Similarly, Assemblymember Das Williams asserted that “[the] bill is about keeping us all safe on the roads, regardless of who is behind the wheel.”⁴⁹ Assemblymember Alejo supported these claims by referencing a DMV study that demonstrated “that unlicensed drivers are nearly three times as likely to cause a crash. He argued that providing training to these drivers through the licensing process would make roadways safer for everyone.”⁵⁰

Proponents of similar bills in other states have also raised these public safety goals,⁵¹ but there is not clear evidence that allowing undocumented drivers to obtain driver’s licenses improves motor safety.⁵² On the one hand, New Mexico saw an increase, albeit minor, in traffic deaths over a four-year period after

44. *Id.* § 12801.9(d)(2) (enacted by Chapter 524).

45. *Infra*, Part A.

46. *Infra*, Part B.

47. *Infra*, Part C.

48. See ASSEMBLY COMMITTEE ON TRANSPORTATION, COMMITTEE ANALYSIS OF AB 60, at 3 (Apr. 22, 2013) (“The author asserts that by providing this alternative, AB 60 will ‘improve traffic safety by ensuring that drivers on the road are properly trained, have passed a background and driving test, know state driving laws, and become insured.’”); *California Bill Would Give Driver’s Licenses to Illegal Immigrants*, *supra* note 5 (“This is a good public policy to allow immigrant families across California to be able to take the exam, learn the rules of the road, learn our safe traffic laws, pass the driving exam. . . .”) (quoting Luis Alejo) (on file with the *McGeorge Law Review*).

49. *Driver License Bill Passes Assembly Floor with Bipartisan Support*, GILROY PATCH (May 29, 2013), <http://gilroy.patch.com/groups/editors-picks/p/driver-license-bill-passes-assembly-floor-with-bipartisan-support> (on file with the *McGeorge Law Review*).

50. *California Bill Would Give Driver’s Licenses to Illegal Immigrants*, *supra* note 5.

51. Gregory A. Odegaard, *A Yes or No Answer: A Plea to End the Oversimplification of the Debate on Licensing Aliens*, 24 J.L. & POL. 435, 446 (2008).

52. *Id.* at 447.

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authorizing undocumented immigrants to obtain driver's licenses.⁵³ Utah, on the other hand, drastically reduced its number of traffic deaths over an eight-year period after passing comparable legislation.⁵⁴ The divergent changes in motor safety in the two states reveals the uncertainty of traffic safety claims; furthermore, these gradual changes merely demonstrate correlation (as opposed to causation) between issuing driver's licenses to undocumented immigrants and traffic deaths.⁵⁵

2. Access to Car Insurance

Aside from safety, the secondary goal of Chapter 524 is to increase drivers' access to car insurance.⁵⁶ California mandates that all drivers have car insurance;⁵⁷ but, in order to obtain insurance, a driver typically must already have a driver's license.⁵⁸ Therefore, undocumented drivers that are driving without licenses perpetually run the risk of being the cause of an accident and burdening the licensed drivers with the expenses because the undocumented drivers do not have a way to pay for the damage.⁵⁹ Chapter 524 seeks to ensure that more drivers qualify for insurance by first enabling them to be eligible for driver's licenses.⁶⁰ There is evidence that this is a realistic goal, since New Mexico and Utah both significantly increased their number of insured drivers after providing greater access to driver's licenses.⁶¹

53. *Id.* (“[Data] show[ed] Utah’s mortality rate drop[ped] from 25.5 per 100,000 drivers in 2000, to 17.2 in 2006 and New Mexico’s rose from 34.9 to 37.4 over the same period.”) (citing Rick Brand & Melissa Mansfield, *The Immigration Driving Debate: The Politics in Albany*, NEWSDAY, Oct. 23, 2007, at A7).

54. *Id.*

55. *See id.* (noting that the traffic safety trends in states that issue driver's licenses to undocumented drivers are “mixed”); Pat Reavy, *Traffic Fatalities are Down, But Push is on to Hit Zero*, DESERET NEWS, (Dec. 13, 2012), <http://www.deseretnews.com/article/865568747/Traffic-fatalities-are-down-but-push-is-on-to-hit-zero.html> (on file with the *McGeorge Law Review*) (reporting that a Utah Public Safety spokesman attributes the decline in traffic deaths not to licensing undocumented immigrants, but rather to “better roads,” “education campaigns,” and “increased enforcement on the roads”).

56. *See California Lawmaker Pushes Driver’s Licenses for More Illegal Immigrants*, L.A. TIMES (Jan. 9, 2013), <http://latimesblogs.latimes.com/california-politics/2013/01/california-lawmaker-pushes-drivers-licenses-for-more-illegal-immigrants.html> (on file with the *McGeorge Law Review*) (discussing Alejo’s assertion that Chapter 524 would provide the opportunity to increase the number of insured drivers on the road).

57. CAL. VEH. CODE § 1656.2 (West 2003 & Supp. 2013) (“California law requires every driver to carry written evidence of valid automobile liability insurance. . .”).

58. Johnson, *supra* note 24, at 220.

59. Spencer Garlick, Note, *License to Drive: Pioneering a Compromise to Allow Undocumented Immigrants Access to the Roads*, 31 SETON HALL LEGIS. J. 191, 202–03 (2006).

60. *See California Lawmaker Pushes Driver’s Licenses*, *supra* note 52.

61. Odegaard, *supra* note 51, at 449–50 (“[T]he success in insuring formerly unlicensed aliens seems uniformly positive, with Utah seeing a nearly 80% drop in uninsured drivers and New Mexico seeing a nearly 60% drop.”) (citing Rick Brand & Melissa Mansfield, *The Immigration Driving Debate: The Politics in Albany*, NEWSDAY, Oct. 23, 2007, at A7).

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3. Civil Rights Issue

Immigrant advocates have also framed providing undocumented residents with the opportunity to apply for driver's licenses as a civil rights issue.⁶² Without driver's licenses, vehicle owners run the risk of having their cars confiscated if the police cite them for driving without a license.⁶³ Additionally, those individuals who are unable to obtain driver's licenses face difficulties in finding employment,⁶⁴ or are more vulnerable to discrimination or abusive working conditions when they do find jobs.⁶⁵ This restriction on worker mobility has even been described as hampering "economic growth and productivity."⁶⁶ Finally, the lack of officially-recognized documentation can increase undocumented immigrants' anxiety about "interacti[ng] with the police and virtually any government official" as well as fear of actual deportation.⁶⁷

B. The Passage of Chapter 524 Divided Immigrant Advocacy Organizations

A Field Poll in early 2013 revealed that the majority of California voters were in favor of passing a bill such as Chapter 524.⁶⁸ Based on this poll, it is not surprising that Chapter 524 had several organizations registered as supporters, including the California Labor Foundation, the Department of Insurance, and the

62. See generally Johnson, *supra* note 24, at 215 ("The denial of licenses to undocumented immigrants generally increases fears of arrest and deportation, limits access to jobs, and increases immigrant vulnerability to exploitation by unscrupulous employers.").

63. See Press Release, Office of Assemb. Member Luis Alejo, Driver License Bill Passes Transportation Committee, Press Release from Office of Assembly Member Luis Alejo (Apr. 22, 2013) (on file with the *McGeorge Law Review*) (according to the Executive Director of the California Farm Labor Contractor Association many undocumented immigrants without driver's licenses must "rely on expensive 'raiteros,' which "further erod[es] their low wages").

64. See Catherine Wiehl, *Reliance on Identification to Secure the Blessings of Liberty and Property*, 81 UMKC L. REV. 509, 509 (2012) ("Without identification, people are not able to obtain legal employment. . . ."). President Barak Obama even made reference to the nexus between driver's licenses and employment during his presidential campaign. See *Transcript of the Democratic Debate, Las Vegas, Nevada*, COUNCIL ON FOREIGN RELATIONS (Nov. 15, 2007), <http://www.cfr.org/publication/14820/> (on file with the *McGeorge Law Review*) ("The primary reason people immigrate to the United States is to improve their economic condition. The way to accomplish that is through employment, and the automobile is almost a necessity for travel to and from that employment.").

65. Odegaard, *supra* note 51, at 449–50 (citing Spencer Garlick, Note, *License to Drive: Pioneering a Compromise to Allow Undocumented Immigrants Access to Roads*, 31 Seton Hall Legis. J. 191, 203–04 (2006)).

66. Garlick, *supra* note 59, at 204 (citation omitted).

67. Johnson, *supra* note 24, at 224 ("The lack of an identification deeply affects the nature of undocumented immigrants' interactions with law enforcement officers. Lacking a license, an undocumented immigrant may want to avoid any interaction with the police and worry about possible deportation from the country for something as minor as a burned out taillight.").

68. Herdt, *supra* note 4.

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California Immigrant Policy Center.⁶⁹ Although not officially registered, the Los Angeles City Council also unanimously supported the legislation.⁷⁰

Although the legislation garnered significant support, there were also several large organizations—mostly immigrant advocacy groups—that registered opposition to Chapter 524.⁷¹ In fact, only one of the registered opponents to the legislation was actually against driver’s licenses being issued to undocumented residents.⁷² The other organizations, in contrast, were against the legislation because the licenses issued without a social security number have language indicating that the driver is not lawfully in the country, distinguishing them from standard driver’s licenses.⁷³ These opponents indicated that drivers with these licenses would be more susceptible to “discriminatory treatment on and off the road” because their licenses carry a distinguishing “mark,” which signifies to law enforcement and others that their presence in the country is not lawful.⁷⁴

Often national security is the principal issue raised by opponents of legislation that allows undocumented immigrants to obtain driver’s licenses.⁷⁵ However, the primary debate surrounding Chapter 524 centered on whether or not the legislation went far enough to ensure that undocumented residents were not put at a greater risk for “detention or deportation” by carrying licenses that differed from regularly-issued licenses.⁷⁶

C. Comparison with Other States’ Driver’s Licensing Laws

While the past year has seen a trend in states loosening restrictions on SSN requirements for driver’s licenses, other states are moving in quite a different direction.⁷⁷ In 2004, Tennessee began requiring applicants for driver’s licenses to

69. SENATE RULES COMMITTEE, SENATE FLOOR ANALYSIS OF AB 60, at 6 (Sept. 12, 2013).

70. Leslie Berestein Rojas, *LA City Council Backs CA Bill That Would Let Unauthorized Immigrants Drive Legally*, S. CAL. PUB. RADIO (June 5th, 2013, 4:51 PM), <http://www.scpr.org/blogs/multiamerican/2013/06/05/13911/la-city-council-backs-ca-bill-that-would-let-unaut/> (on file with the *McGeorge Law Review*).

71. SENATE RULES COMMITTEE, SENATE FLOOR ANALYSIS OF AB 60, at 7–8 (Sept. 12, 2013).

72. *Id.* At an Assembly hearing held before the legislation included language to make the driver’s license a “marked” license, only one opponent was in attendance. Herdt, *supra* note 4 (“Only a single individual, Don Rosenberg of Westlake Village, whose son was killed in an auto accident caused by an unlicensed driver, testified in opposition. Rosenberg is the founder of an organization called Unlicensed to Kill. He asserted that many of those who are here illegally come from cultures in which unsafe driving is commonplace and that their safety practices will not improve if they are given the opportunity to obtain valid licenses.”).

73. Letter of Opposition from California Rural Legal Assistance, SEIU California, American Civil Liberties Union, MALDEF, California Nurses Association, California Professional Firefighters, California Labor Federation, and United Farm Workers [hereinafter Letter of Opposition] (on file with the *McGeorge Law Review*).

74. *Id.* (“A ‘scarlet letter’ type marking on licenses, coupled with a prohibition against the use of the driver’s license as identification will negatively impact community members.”).

75. Odegaard, *supra* note 51, at 452.

76. Letter of Opposition, *supra* note 73.

77. See Rojas, *supra* note 70 (reporting that both Colorado and Nevada passed laws to permit undocumented immigrants to obtain driver’s licenses, but stating that Arizona has “taken the opposite

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prove their lawful status in the U.S.⁷⁸ At the same time, the state implemented a program that offered undocumented immigrants a “Certificate for Driving” (CFD), which was not the typical driver’s license—and could not be used for identification purposes—but was functional as a legal, driving document.⁷⁹ However, the program was short lived, and, in response to public criticism,⁸⁰ officials ended the program in 2007.⁸¹

Finally, Arizona has declined to allow driver’s license access to undocumented youth with temporary legal status (i.e., those individuals that qualify for President Obama’s “Deferred Action for Early Childhood Arrivals” program).⁸²

V. CONCLUSION

Chapter 524 goes into full effect in 2015,⁸³ at which time undocumented residents will be able to apply for driver’s licenses without social security cards.⁸⁴ In passing Chapter 524, California joins a small but growing trend of states that have enacted legislation allowing undocumented residents to obtain driver’s licenses.⁸⁵ California legislators had introduced similar bills each year for the past decade, but Chapter 524 is the only one that both passed the legislature and that the governor ultimately signed into law.⁸⁶

Other states with similar legislation have seen an increase in the number of drivers with insurance in their states, which indicates that California should also see an increase in its insured drivers.⁸⁷ Yet, the traffic safety effects of such

approach” by not even allowing immigrants who have deferred action to obtain driver’s licenses).

78. Odegaard, *supra* note 51, at 442.

79. *Id.*

80. *Id.* at 443 (“On the one hand, immigrant rights organizations roundly criticized the CFDs for creating an inferior subclass of license holders. On the other, many people expressed concerns that the CFDs gave their holders an undeserved legitimacy.”) (citations omitted).

81. See TENN. COMP. R. & REGS. 1340-01-13-.08(1)(b) (2007) (showing that Tennessee now requires that in order to be issued even a temporary driver’s license, “an applicant’s presence must be authorized by the federal government”).

82. Rojas, *supra* note 70.

83. Chapter 524 also includes language permitting the DMV to start issuing driver’s licenses before January 1, 2015, if they complete a plan of action before that date. CAL. VEH. CODE § 12801.11(a) (enacted by Chapter 524).

84. *Id.* § 12801 (enacted by Chapter 524).

85. See Jeimy Zepeda, *Let Them Drive: Documents for the Undocumented*, THE ECONOMIST (June 15th, 2013), <http://www.economist.com/news/united-states/21579511-documents-undocumented-let-them-drive/print> (on file with the *McGeorge Law Review*) (reporting that several states passed laws in 2013 allowing undocumented immigrants to obtain driver’s licenses, including Connecticut, Colorado, Nevada, Oregon, Maryland, and Illinois).

86. ASSEMBLY COMMITTEE ON TRANSPORTATION, COMMITTEE ANALYSIS OF AB 60, at 3 (Apr. 22, 2013).

87. See Odegaard, *supra* note 51, at 449–50 (“[T]he success in insuring formerly unlicensed aliens seems uniformly positive, with Utah seeing a nearly 80% drop in uninsured drivers and New Mexico seeing a nearly

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legislation are still unclear among the few states that have had similar laws over an extended period of time, making it difficult to predict the safety outcomes in California.⁸⁸ At a minimum, Chapter 524 meets the demands of at least some immigrant rights advocates that saw the denial of driver's licenses to undocumented immigrants as an affront to the basic civil rights of undocumented California residents.⁸⁹

60% drop.”).

88. *See id.* at 447 n.80 (“[Data showed] Utah’s mortality rate drop[ped] from 25.5 per 100,000 drivers in 2000, to 17.2 in 2006 and New Mexico’s rose from 34.9 to 37.4 over the same period.”).

89. *See generally* Johnson, *supra* note 24, at 215 (“The denial of licenses to undocumented immigrants generally increases fears of arrest and deportation, limits access to jobs, and increases immigrant vulnerability to exploitation by unscrupulous employers.”).