

Denying License Plates to Illegals, Too

By David North

While many states in recent years have made it harder for illegal aliens to get driver's licenses, too few states examine these documents when issuing license plates for cars. A survey of state motor vehicle agencies showed these practices:

- Only a few states, no more than four, issue driver's licenses to illegal aliens, or provide inadequate screening systems.
- A much larger group, 19, hand out driver's license relatively carefully, but do not demand the document when distributing the plates.
- The largest group of jurisdictions, 23 of them (including Washington, D.C.) deny driver's licenses to illegal aliens, and require that everyone seeking to register a car must produce that document.
- There are also five states where the rules are not clear; in two of them the issuance of plates is done by county clerks, with the practices varying by county.

Driver's licenses are routinely used as ID documents in America; I certainly use mine that way scores of times in commercial settings for every time that I actually show it to a police officer.

But if we want to discourage illegal aliens from driving (and generally from living in the United States) we should think about the license *plates* on cars as well. A rumped, street-wise friend of mine, once a Virginia criminal defense lawyer, and now in the municipal tax collection business, said to me once: "David, what the illegals really want, in addition to amnesty, is a set of valid license plates for their cars."

"A missing or out-of-date license plate on a car is much more visible than a lapsed or non-existent driver's license. The cop can see it from a distance without having to stop the car first," he continued, "and the illegals aren't dumb, they know that."

A few weeks later, a colleague mentioned that the issuances of driver's licenses and license plates, though usually done by the same state agency, were often on different tracks, and someone who could *not* get a driver's card, could get license plates.

Bearing in mind these two threads of intelligence, I decided to explore the extent of the disconnect between the two issuance processes, state by state. It was a tedious bit of research but in the days before the Internet it would have taken much longer. Some states' instructions on registering a car, or getting the plates, tell whether a driver's license is needed, and some do not; but all have e-mail answering services, of varying degrees of quality, that you can attempt to use when the information is not immediately forthcoming on the Web.

It turns out that this is a *major* disconnect. There are at least 19 states that do *not* demand that those wanting license plates have driver's licenses. There are several tiers of security among the state motor vehicle agencies on this point, and the distinctions among these groupings are not hard and fast.

At the top of these tiers, which we will call Class A, are states that have reasonably rigorous driver's license requirements *and* insist that you show that license when you title a car or get plates. Then there are the Class B states, which, to at least some extent, require assurance of legal presence to get the driver's license, but do not require you to show that license when you title a car or get plates. Class F states do not check legal status at all, or

David North is a CIS Fellow.



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do so ineffectively, when they distribute driver's licenses. Then there is Class X, where I was unable to learn what rules apply.

The final category also includes Iowa and Wyoming, where auto registration is done at the county level, and different rules apply in different counties. I made no attempt to examine practices in those two states.

These are the groupings of the states:

Class A: Alabama, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Georgia, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Montana, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, and South Dakota, a total of 23.

Class B Alaska, Arkansas, Florida, Illinois, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, Oregon, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin, or 19 in all.

Class F: Hawaii, New Mexico, Utah, and Washington State; these are on the list of states (<http://www.judicialwatch.org/blog/2010/aug/surge-driver-s-licenses-illegal-aliens>) issuing driver's licenses to illegals prepared recently by Judicial Watch. But it is a fluid situation. The two candidates for governor of New Mexico this year, according to this report (<http://newmexicoindependent.com/62110/king-chandler-tangle-over-drivers-licenses-for-illegal-immigrants>) want to reform the system. Both Hawaii and Washington State have documentary requirements, but feeble ones in my eyes, for would-be drivers. Utah is reasonably strict about giving its driver's license to illegal aliens, *but* it has a Driver Privilege Card which is basically a license for illegal aliens. Fortunately, there are no more than four states in Class F.

Class X: There are three in this category: Idaho, Oklahoma, and West Virginia; and then there are Iowa and Wyoming.

In some instances, such as New York State, the appropriate class is hard to define, and I had to, more or less arbitrarily, assign the state in question to one of the categories. In that state, in order to get plates on a newly registered car one must show a valid N.Y. driver's license *or* one or more other documents from a list of 44. The combination of documents must prove, to New York's satisfaction, one's name and date of birth.

Although the list, at first glance, is impressive, some sets of documents that meet these requirements could well document an undocumented alien. You could show, for instance, a driver's license from a Class F state, a U.S. high school ID with a report card, and a U.S. marriage license. That mix would get the New York license plates you wanted. (The genuine components of that particular mix, however, would be available to only a handful of New York's illegal aliens.)

The New York listing (<http://www.nydmv.state.ny.us/forms/id82.pdf>) of these 44 documents looks like an effort to appear to be careful, but one that, by accident or design, is capable of being outmaneuvered.

Similarly, in North Dakota, which is also on the Class A list, you need to provide a driver's license. But if you do not have a license from that state, you could provide a combination of a license from an F Class state plus a possibly phony Social Security number and get your plates. The acceptance of other states' licenses is quite widespread. Perhaps we should have added an A-minus, or "Yes, but..." category.

Anomalies abound in the small print of these state regulations. For example, New York's motor vehicle agency thinks that the Republic of the Marshall Islands in the central Pacific is a U.S. territory, which has not been true for decades; similarly it regards Wake Island, a genuine U.S. territory which does not have a permanent resident population, as an entity giving out birth certificates, which it is not.

Several states take Canadian driver's licenses as acceptable for issuing plates; and several others, Minnesota, Montana, and New York among them, accept tribal ID cards during the registration process.

Then there is the question of the DHS-issued Employment Authorization Document (EAD). It authorizes the holder to work in the U.S., according to this DHS publication (<http://www.uscis.gov/files/form/i-765instr.pdf>), and covers a wide variety of migration situations, from the harmless (dependents of Taiwanese diplomats) to people in the throes of deportation (those who have applied for suspension of deportation and those with final, but not yet executed, orders of deportation.)

Many states (e.g., Minnesota, New York) accept the EAD as an indication of legal presence in connection with license plates. In Virginia, it is different; an illegal alien carrying this document not only killed someone recently while driving under the influence, but he killed a nun and it was well publicized. The governor, as reported in this article (<http://www.wvec.com/home/EAD-cards-no-longer-accepted-for-immigrant-drivers-licenses-102385209.html>) decided that the EAD can no longer be used in his state to secure a driver's license.

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That is all very well, but Virginia issues license plates without checking to see if you have a driver's license.

The gap between controlling driver's licenses carefully but being casual about the plates on the illegals' cars is not a widely discussed policy issue, but it got some well-deserved attention in Massachusetts earlier this year.

As the Boston Fox affiliate reported (<http://www.myfoxboston.com/dpp/news/undercover/illegal-immigrants-able-to-register-cars-in-mass-20100616>), "Tens of thousands of illegal immigrants in Massachusetts are able to get their cars on the road legally thanks to a little-known law that lets Massachusetts drivers register their vehicles even if they don't have drivers' licenses."

Corrective legislation was introduced in the Massachusetts legislature by State Sen. Richard Tisei. It passed the upper house during 2010 but did not get any farther. Both branches of this legislature are heavily Democratic.

Conclusion. The central problem is that literally millions of illegal aliens live in states where they can get license plates on their cars without having to produce a driver's license; Texas and Massachusetts are perfect examples. Now that reformers in the various states have made serious progress on the issue of driver's licenses, it is time for them to focus on plates as well.

Progress in this field is unlikely to run into the kind of negative federal judicial intervention that we have seen in Arizona. Licensing cars and drivers is a totally state function, so there can be no argument of a federal predominance in the field.

Further, even the ethnic and civil liberties advocacy groups will have trouble claiming discrimination if all you want to do is to make sure that the owner of the car is someone legally eligible to drive it. There need be no reference to the civil status of the owner; one simply has to have a valid driver's license if one wants to register a car and get plates. (Provisions can be made for the legitimate ownership of cars by the elderly and the disabled who do not drive, but do own vehicles.)

State governments that want to do something clearly within their powers to curtail illegal immigration have an open field. They can, in the few remaining Class F states, make it harder for illegal aliens to get driver's licenses. In both Class B and Class F states, they can link tougher driver's license rules to strong requirements that you must have a driver's license to get plates for the car. And in Class A states they can make sure that the driver's license rules are really tight.

In some places this will require legislation. In others, where the motor vehicle agency is under the governor, changes can be made administratively, without legislation. In still others it would be up to elected officials other than governors, as in some states the elected Secretary of State runs the motor vehicle agency, and in still others it is the elected State Treasurer.