



## The Oregon Driver Card – Frequently Asked Questions

By Immigrant Law Group PC<sup>1</sup>

May 25, 2013

This is a *preliminary* FAQ that answers questions about the new Oregon driver card. This FAQ is not legal advice and does not replace the individual advice provided by an attorney. We will update this FAQ as necessary. To keep up-to-date on all the developments, sign up for our *safe information network* by registering at [www.ilgrp.com](http://www.ilgrp.com). The *safe information network* is free and easy to use – all you need is an email address.

### What is SB 833 or Senate Bill 833?

SB 833 is an Oregon law that restores driving privileges to Oregon residents who lost their licenses, were unable to obtain licenses, or never applied for licenses because they were unable to prove lawful presence under federal immigration law. In 2008, a different Oregon law took effect and restricted driver licenses and identification cards to only those Oregon residents who were able to prove lawful presence under federal immigration law. Oregon Senate Bill 833 amends the Oregon Vehicle Code by creating a document called the Oregon Driver Card that is intended to grant driving privileges to those Oregon residents who are ineligible for licensing under the 2008 law change.

You can read the law here: <http://www.leg.state.or.us/13reg/measpdf/sb0800.dir/sb0833.en.pdf>

Eventually, SB 833 will be codified in the Oregon Vehicle Code by the Oregon Legislative Counsel and will appear in ORS 807.

### What is the Oregon Driver Card?

The Oregon Driver Card grants an Oregon resident driving privileges. It is identical to an Oregon driver license for operating a motor vehicle in Oregon. Oregon Senate Bill 833 created the Oregon driver card. The Oregon driver card's primary benefit is that it grants driving privileges. The Oregon driver card may not be used to enter a Federal building or board an airplane.

---

<sup>1</sup> ILG gratefully acknowledges the research and editorial assistance of Meg Heaton, staff attorney at Causa Oregon; Reyna Lopez, Civic Engagement Director at Causa Oregon; and Mark Perez, a graduating law student at Lewis & Clark School of Law. Corrections or suggestions for this FAQ may be sent to Stephen Manning at [smanning@ilgrp.com](mailto:smanning@ilgrp.com). Additional FAQs and information on this law and other laws impacting immigrants in Oregon may be found at [www.ilgrp.com](http://www.ilgrp.com). Information about the driver license restoration campaign can be found at [www.causaoregon.org](http://www.causaoregon.org).

### **Who is eligible for an Oregon Driver Card?**

The Oregon driver card is available only to long-term Oregon residents who pass the driver skills test and prove identity and age. It is available to qualified Oregon residents without regard to immigration status.

### **What is the Oregon residency requirement to obtain an Oregon Driver Card?**

The Oregon driver card is available only to individuals who have resided in Oregon for more than one year. The law specifies the evidence that must be shown to prove residence for one year or more: (1) Evidence that the person owns or leases property in Oregon for purpose of living here or (2) Filing a full-year resident or part-time resident Oregon Tax return for the most recent tax year. The law also grants authority to the Oregon DMV to determine if any other proof may be accepted for proving residency. As of the date of this posting, Oregon DMV has not specified if any other documents will be accepted.

### **Do I have to prove my federal immigration status to get an Oregon Driver Card?**

No. The Oregon driver card is available to any Oregon resident who can prove his or her identity, prove his or her age, and can pass the skills test.

### **Am I eligible for an Oregon Driver Card if I do not have a Social Security Number?**

Yes. The law does not require that the holder have a valid Social Security Number. The law does require that the holder provide a Social Security Number if he or she has been assigned one or file a written statement indicating that he or she has not been assigned a Social Security Number. The law requires that the DMV verify the Social Security Number of the holder.

### **Am I eligible for an Oregon Driver Card if I have a restricted Social Security Number?**

Yes. The Social Security Administration issues restricted Social Security Numbers. The restrictions vary; however, the two most common types of restrictions are (1) the Social Security Number is not valid for work or (2) the Social Security Number is valid for work only when accompanied with federal immigration work authorization. However, in both instances, the Social Security Number is an authentic Social Security Number assigned to a particular individual. The Oregon law does not provide any limitation on the use of a restricted Social Security Number for driver card purposes.

### **Am I required to get an Oregon Driver Card if I am a noncitizen with temporary lawful presence such as a nonimmigrant worker or a Deferred Action for Childhood Arrivals (DACA) grantee?**

No. Individuals who have been granted deferred action under DACA or hold a nonimmigrant status are considered lawfully present under immigration law; these individuals may apply for a limited term driver license. A limited term license is valid as any other license provided that it expires at such time as the individual's lawful presence expires. For more information, consult the ILG advisory *Deferred Action and Oregon's Driver License Law* (Dec. 18, 2012) available at <http://www.ilgrp.com/wp-content/uploads/2012/12/OrDMV-DACA-Memo-Public2.pdf>

### **Where else can I find updates concerning the new law?**

The Oregon Department of Transportation is still in the process of rulemaking. For updates on the process: [www.oregon.gov/ODOT/CS/RULES/pages/dmv\\_actions.aspx](http://www.oregon.gov/ODOT/CS/RULES/pages/dmv_actions.aspx)

### **When will Oregon driver cards be available?**

The law establishing the Oregon driver card was signed on May 1, 2013. It takes effect on January 1, 2014. The law is presently being challenged by opponents.

### **Are United States citizens or lawful permanent residents impacted by the law?**

No. The law has no impact on United States citizens and lawful permanent residents. Oregon law already provides that U.S. citizens and lawful permanent residents may qualify for a driver license or permit, provided that they meet all of the application requirements. Generally, an Oregon driver license issued to a U.S. citizen or lawful permanent resident will be valid for at least 8 years.

### **Are noncitizens who are lawfully present in the United States impacted by the law?**

No. Individuals who have been granted deferred action under DACA or hold a nonimmigrant status are considered lawfully present under immigration law; these individuals may apply for a limited term driver license. A limited term license is valid as any other license provided that it expires at such time as the individual's lawful presence expires. If the length of stay is indefinite, the card will be valid for a one-year period.

### **Who may apply for an Oregon driver card?**

Oregon residents who want to operate a non-commercial vehicle but cannot provide proof of legal presence in the United States may wish to apply for a driver card.

To have proof of "legal presence" means a person is able to provide proof that they are a citizen or lawful permanent resident of the United States or is otherwise legally present in the United States according to federal immigration laws.

### **How do I apply for an Oregon driver card?**

No one can yet apply for an Oregon driver card. Oregon DMV has not yet established an application process and is not accepting applications. Information about Oregon DMV's implementation of SB 833 is available at <http://www.oregon.gov/ODOT/DMV/Pages/faqs/sb833.aspx>.

### **Who is eligible for an Oregon driver card?**

In order to be eligible for an Oregon driver card, an applicant must (1) prove his or her identity, (2) prove his or her birth date, (3) satisfy the driver skills test, and (4) prove his or her status as an Oregon resident. The law specifies the ways in which an individual can prove these requirements.

### **What documents may be presented to prove identity?**

An individual who would like to obtain an Oregon driver card must prove his or her identity. The law specifies that an applicant must submit either an unexpired passport from the applicant's country of citizenship or an unexpired valid consular identification document issued by the consulate of applicant's country of citizenship. The law also allows the DMV to determine if it will accept other documents to prove identity. Presently, DMV has not indicated if any other documents will be accepted. <http://www.oregon.gov/ODOT/DMV/Pages/faqs/sb833.aspx>

### **How much does an Oregon driver card cost?**

The fee is \$64.

### **What if I have been convicted for a felony or misdemeanor?**

Oregon law restricts driving privileges when an individual has been convicted of certain crimes. All the rules related to driver licenses limitations and restrictions apply equally to holders of the Oregon driver card. Detailed information can be found on the Oregon DMV website: [http://www.oregon.gov/ODOT/DMV/docs/form/oregon\\_suspension\\_guide.pdf](http://www.oregon.gov/ODOT/DMV/docs/form/oregon_suspension_guide.pdf)

### **What will the driver card look like?**

A driver card should include information contained on other Oregon driver license including the holder's brief physical description, full legal name, residence address, and photograph. The words "driver card" must be included on the card. The law requires that a driver card have an additional distinguishing feature. This distinguishing feature has yet to be determined by the Department of Transportation.

### **How long is a driver card valid for?**

The Oregon driver card is valid for four years from issuance and expires on the applicant's birthday.

### **What can an Oregon driver card be used for?**

The law authorizes an individual with a driver card to operate a non-commercial motor vehicle in the state of Oregon.

In addition, Oregon law specifies other official purposes for which the Oregon driver card can be used: to identify the holder as an anatomical donor, to identify the person as an emancipated minor, to identify the person as a veteran, to provide a driver card number as required under ORS 18.042, 18.170 and 25.020, and to provide a driver license number to aid a law enforcement agency in identifying a missing person under ORS 146.181.

### **Can the holder of an Oregon Driver Card obtain automobile insurance?**

Yes. Under Oregon law, the Oregon Driver Card is subject to the same statutes and procedures that govern driver licenses and driver permits. The terms of an insurance policy are subject to Oregon's mandatory insurance laws. For more information, consult the Oregon Insurance Division's

### **Can I use a driver card to purchase alcohol in Oregon?**

Alcohol sales in Oregon are restricted to individuals 21 years of age or older. Individuals who appear to be under 21 years of age may be required to present identification to prove age. Oregon law accepts as proof of age for alcohol purchases a "person's motor vehicle operator's license, whether issued in this state or by any state, so long as it has a picture of the person." It is unclear if the Oregon driver card will satisfy this requirement although it should. However, Oregon law also permits an individual to prove age for alcohol purchases by presenting a passport. The law also provides that an individual who does not carry any form of identification listed in the statute may also sign an affidavit of age. The requirements for an affidavit of age are set out at ORS 471.130.

### **Can the Oregon Driver Card be used to open a bank account?**

Yes. Federal law provides that an individual may open a bank account after a bank has verified that individual's identity. A bank may use different types of methods to verify identity including document checks, reference checks, credit checks, and other sources of information. The bank may also rely on documents that are government-issued and bear the holder's photograph, residence or other similar safeguard. Federal law references a driver's license as an example of such a document. Alternatively, an unexpired passport from any country will also satisfy the identity verification process for most banks.

### **Is there a rule that would prohibit a non-governmental organization such as a car rental agency, landlord, car dealership or other non-government company or person from accepting the Oregon driver Card as an identity document?**

There are no rules that state that a private entity cannot accept the Oregon driver card as an identity document. Section (4) of SB 833 provides that an Oregon state agency may only use the Oregon Driver Card to demonstrate driving privileges and certain other limited reasons. However, this limitation does not preclude a private party from using the Oregon Driver Card as demonstrating identity. Importantly, the Oregon Driver Card will contain a photograph, a residence address, and other biometric descriptors identifying the holder as one with driving privileges. The Oregon Driver Card is intended to function as an identity document for Oregon state purposes when it is used to identify the holder as having driving privileges.

Section (4) of SB 833 provides that the Oregon Driver Card may also be used where other Oregon law requires the use of a driver license or identification card. For example, section (4) permits the Oregon Driver Card to be annotated by a state agency indicating that a minor has been emancipated. Likewise, for missing persons reports, an Oregon Driver Card identification number may also be used in place of an Oregon driver license number.

Arguably, if the Oregon DMV has already determined the identity of the holder this determination should be sufficient for non-governmental organizations.

## **Will the Oregon Driver Card be valid for driving in other states such as Washington or California?**

Yes. Washington and California provide that certain out-of-state visitors with a valid Oregon license may operate a motor vehicle when traveling in those states. Under Washington law, an Oregon resident who is at least 16 years old and has “immediate possession of a valid driver’s license” from Oregon may operate a motor vehicle in Washington. Under California law, an Oregon resident who is at least 18 years old and has in his or her “immediate possession a valid driver’s license” issued by Oregon may operate a motor vehicle in California. California defines “driver’s license” as a “valid license to drive the type of motor vehicle...for which a person is licensed...by a foreign jurisdiction.” Washington does not appear to have a definition of “driver’s license”. Under both California and Washington law, it appears that the intent of the laws is to provide Oregon residents access to the public roads if the Oregon resident holds valid Oregon driving privileges. The Oregon driver card grants driving privileges and therefore an Oregon resident may operate a passenger motor vehicle in those states. This FAQ does not address the validity of the Oregon driver card in any other state. The American Automobile Association (AAA) maintains a digest of motor vehicle laws of all 50 states available at: <http://drivinglaws.aaa.com>

## **Is the Oregon Driver Card acceptable identification for law enforcement?**

In Oregon, state and local law enforcement may have occasion to request that an individual identify himself or herself. Generally, the request for identification is made in the course of a stop or arrest. There is no law that limits the discretion of state or local police in making identification and the police officer may use his or her discretion in making an identification including using witnesses or other non-documentary evidence. The Oregon driver card law permits law enforcement (as well as any other state agency) to use the Oregon Driver Card to identify the holder as one having driving privileges. This FAQ does not address if the Oregon driver card will be accepted when used out of state for identification purposes.

## **May I use an Oregon Driver Card to establish identity for completing an I-9, Employment Eligibility Verification form?**

Yes. Most individuals seeking employment in the United States must establish the legal authorization to work. To do so, most citizens and noncitizens must complete an immigration form, I-9, Employment Eligibility Verification. The form limits the types of documents an individual may use to prove both identity and work authorization. The Oregon driver card can satisfy the “List B” documents on the form I-9 because it bears a photograph and, additionally, it contains the holder’s name, date of birth, gender, height, eye color and address.

While federal law prohibits the use of the Oregon Driver Card for “official purposes” to access Federal facilities, board federally regulated commercial aircraft, enter nuclear power plants, the federal government has not extended this limitation to the I-9 program.

**Will Oregon law enforcement or Oregon DMV use the status of “Oregon driver card” as an indicator of unlawful immigration status?**

No. Presently, Oregon law does not require Oregon DMV to verify an individual’s immigration status to obtain the driver card. Importantly, an individual who applies for an Oregon driver card is not required to state or admit to his or her federal immigration status. Instead, the Oregon driver card is available to Oregon residents who have not proven lawful presence.