

Undocumented Motorist Safety & Insurance Task Force

Wednesday, April 2, 2014
5:30 – 7:30 PM
Senate Hearing Room, Legislative Hall

Meeting Attendance

Task Force Members:

Present:

	<u>E-mail:</u>	<u>Phone:</u>
Senator Bryan Townsend	Bryan.Townsend@state.de.us	302-744-4165
Representative Helene Keeley	Helene.Keeley@state.de.us	302-744-4351
Representative Joseph Miro	Joseph.Miro@state.de.us	302-744-4171
James Collins	James.Collins@state.de.us	302-744-4222
Javier Torrijos	DHC_Chair@state.de.us	302-894-6329
Rosario Calvachi-Mateyko	Charitocw@aol.com	717-951-0905
Matthew Heckels	Matthew@destatehousing.com	302-739-4263
Raymond Holcomb	Raymond.Holcomb@state.de.us	302-744-2678
Major Melissa Zebly	Melissa.Zebly@state.de.us	302-270-8745
Director Jennifer Cohan	Jennifer.Cohan@state.de.us	302-744-2545
Sean Lugg	Sean.Lugg@state.de.us	302-577-8809
Ana Velasquez	avelasquez@thelatincenter.org	302-655-7338x7696
Claudia Peña Porretti	cporretti@laesperanza.org	302-854-9262x16
Jose Somalo	jose.somalo@gmail.com	302-854-0240
Bryan Cochran	bryan.cochran.idcb@statefarm.com	302-529-0556
Darlene Battle	dbattle@delaca.org	302-656-8200
Karen Weldin Stewart	Karen.Stewart@state.de.us	302-674-7300

Absent:

Senator Robert Marshall	Robert.Marshall@state.de.us	302-744-4168
Senator Brian Pettyjohn	Brian.Pettyjohn@state.de.us	302-744-4048
Representative Andria Bennett	Andria.Bennett@state.de.us	302-744-4351
Deborah Gottschalk, Esq.	Deborah.Gottschalk@state.de.us	302-255-9038
Chief William Topping	William.Topping@cj.state.de.us	302-856-6613
Keyla Rivero-Rodriguez	Keyla.Rivero-Rodriguez@state.de.us	302-857-5873
Pastor Jeremias Rojas	cryingprophet@verizon.net	302-562-4597
Judy Diogo	jdiogo@cdcc.net	302-734-7513
New Castle County Chamber of Commerce	-N/A	
Greater Georgetown Chamber of Commerce	-N/A	
Delmarva Poultry Industry	-N/A	

Staff:

Michelle Zdeb	Michelle.Zdeb@state.de.us	302-744-4059
Caitlin Del Collo	Caitlin.DelCollo@state.de.us	302-744-4182
Mariclaire Luciano	Mariclaire.Luciano@state.de.us	302-744-4180

<u>Attendees:</u>	<u>Organization:</u>	<u>Phone:</u>
Andrew Meehan	CSDL	202-312-1540
Brian Zimmer	CSDL	202-312-1540
Kevin Andrade	Maxima	302-228-8942
Rhonda West	Del. Dept. of Insurance	
Gene Reed	Del. Dept. of Insurance	
Kami Beers	DMV	302-744-2561
Jason Vanderschel	DMV	302-943-1802
Olivia Lawson	DMV	302-434-3242
Scott Vien	DMV	302-744-2730
Drew Fennell	Office of the Governor	302-577-3210
Jen Rini	State News	
James Dawson	Delaware Public Media	

The Task Force meeting was brought to order at 5:38 p.m.

INTRODUCTIONS

Senator Townsend, co-chair, thanked the members of the Task Force and public for attending the meeting. The Senator gave recognition to Michelle Zdeb, Legislative Assistant, for her efforts with the Task Force. He then introduced Caitlin Del Collo, Legislative Fellow, and thanked her and Ms. Zdeb for their preparations for today's meeting. Senator Townsend then introduced the first item on the agenda: consideration of Task Force Meeting Minutes.

CONSIDERATION OF TASK FORCE MEETING MINUTES

Senator Townsend stated the Minutes were circulated to Task Force members last week and asked if any members had changes they wanted to make. Seeing no changes, the Senator asked for a motion to approve the Meeting Minutes.

Javier Torrijos, Chair of the Delaware Hispanic Commission, moved to approve the Meeting Minutes.

Bryan Cochran, on behalf of the insurance industry, seconded the motion to approve the Meeting Minutes.

Senator Townsend asked for all in favor of approving the Minutes to say "aye," then asked if anyone opposed.

The Meeting Minutes were approved, with all members in favor.

Senator Townsend thanked the staff at the Division of Motor Vehicles (DMV) for translating the Meeting Minutes into Spanish. The Senator explained that the Minutes were translated in order to encourage public participation among the Spanish-speaking community, which represents a large percentage of the people affected by the issue before the Task Force. Senator Townsend

acknowledged that communities of other races, ethnicities, and languages are also affected by the issue.

PRESENTATION BY DEPARTMENT OF SAFETY & HOMELAND SECURITY

Senator Townsend invited Task Force member Raymond Holcomb to provide a presentation on behalf of the Department of Safety & Homeland Security.

Raymond Holcomb stated that although he cannot speak for Immigration & Customs Enforcement (ICE), generally ICE encourages law enforcement to contact ICE's 24-hour hotline in the event that an undocumented individual is detained for a criminal offense. In such situations ICE will attempt to issue a detainer to hold the individual over for deportation. While this is the official position of ICE, Mr. Holcomb cannot comment on whether that happens in every instance.

Rosario Calvechi-Mateyko, co-chair of the Delaware Hispanic Commission, asked whether ICE's policy is mandated by law.

Mr. Holcomb responded it is not mandated, but strongly encouraged.

Mr. Torrijos asked whether criminal offenses include all traffic violations.

Mr. Holcomb responded that a traffic violation would have to be a serious, criminal violation in order to be considered a criminal offense.

Ms. Calvechi-Mateyko asked if driving without a license is considered a serious violation.

Mr. Holcomb responded it is not a serious violation.

Senator Townsend acknowledged that there were a number of legal issues raised at the first meeting, which he hopes can be addressed by the Attorney General's office at future meetings.

The Senator stated that the information just provided by Mr. Holcomb on behalf of Homeland Security was clearly important to the Task Force, particularly in terms of the formal and informal relationships between federal, state, and local agencies, and the ways those relationships will impact the structure of legislation or education programs on the issue. Senator Townsend also noted that Representative Keeley, co-chair, had joined the meeting. He then thanked Mr. Holcomb for making himself available and opened the floor for questions.

Ana Velasquez, on behalf of the Latin American Community Center, asked if Homeland Security has any concerns about Delaware proceeding with driving privilege cards.

Mr. Holcomb replied that the Department's greatest concern is the misuse of driving privilege cards for nefarious purposes, including criminal and terrorist related activity. The Department strongly encourages that if driving privilege cards are issued, they are designed to be distinct from driver's licenses and indicate on their face that they cannot be used for identification purposes.

Senator Townsend asked if there were any follow-up questions or additional questions.

Claudia Peña Porretti, on behalf of La Esperanza, referenced Mr. Holcomb's statement that ICE currently encourages law enforcement to contact the ICE hotline, and asked what he anticipates will happen between local law enforcement and ICE if an individual with a driving privilege card is stopped for a traffic violation.

Mr. Holcomb repeated his statement that he cannot speak for ICE, but speculated that if a person is stopped for a low-level, misdemeanor traffic violation; local law enforcement would not call ICE to encourage them to issue a detainer.

Senator Townsend thanked Mr. Holcomb for his response.

PRESENTATION BY COALITION FOR A SECURE DRIVER'S LICENSE

Please refer to the attachment to view the PowerPoint slides. A summary of Mr. Meehan's slides is provided below.

Senator Townsend announced the next item on the agenda: a presentation by Andrew Meehan of the Coalition for a Secure Driver's License (CSDL). The Senator thanked Mr. Meehan for coming and mentioned that he attended the previous Task Force meeting. Senator Townsend noted that Director Jennifer Cohan referenced the Coalition for a Secure Driver's License during the first Task Force meeting, and turned the floor over to Mr. Meehan.

Andrew Meehan thanked the Task Force for considering the complicated issue of driving privilege cards. Over the past 24 months, 12 States have begun issuing licenses to undocumented immigrants, and have done so quickly. The Coalition has found that oftentimes the full scope of the issue of driving privilege cards has not been examined prior to passing legislation. As such, the Coalition appreciates the fact that Delaware is taking the time to consider the issue holistically.

Mr. Meehan proceeded to give background on CSDL. The organization was founded in 2001, following the terrorist attacks of 9/11. After the attacks it was realized that driver's licenses are the preferred form of identification; they are used for purposes such as signing a lease and opening a bank account. At the time of the terrorist attacks there was not an organization investigating driver's license fraud, who commits such fraud, and for what purposes. People do not go to the DMV to get a second driver's license for no reason; usually there is fraudulent activity related to other crimes. Many times people obtain a second license because the first one has been suspended or revoked. Multiple DUI convictions, evasion of child support, and wire fraud are other reasons why people try to obtain multiple licenses. In one instance, a woman in New York who had multiple licenses committed Social Security benefits fraud in the amount of \$520,000. In another instance, someone whose license was suspended or revoked due to multiple DUI convictions obtained a CDL license in order to drive a school bus. The Coalition has learned that if fraud is allowed to occur through easily impenetrable practices, it will occur, and for a variety of reasons.

In 2009 CSDL established a State Awards Program recognizing states that take extraordinary measures to prevent identity theft and fraud. Awards are given in four categories: Document Security, National Security, Public Engagement, and Identity Protection. In 2012 Delaware was awarded the Identity Protection Award for taking extra steps, under the leadership

of Director Cohan and others at the DMV, to protect the identity of those applying for driver's licenses. Mr. Meehan pointed out that although it is more difficult for a law-abiding person to obtain a driver's license, it is also more difficult for a criminal to commit fraud. The process in place for obtaining a license is in place for good reasons. At the same time, Mr. Meehan noted that even with the right process in place, one corrupt employee at the DMV can undo the efforts to protect identity.

Another finding from the Coalition is that many DMVs do not work with local law enforcement when they discover multiple identities and licenses. They simply invalidate the licenses. At that point, the damage is already done, because the multiple documents, which appear legitimate, are already in circulation. In contrast, Delaware has a good record for working with law enforcement to investigate fraud.

The process for obtaining a driver's license or identification card is based upon a layered system of multiple documents. No one document is absolutely secure, so by providing multiple documents with identifiable security features, and verifying the documents with the issuing agencies, a higher level of security is achieved.

The challenge with foreign documents is that it is more difficult to spot fake ones, particularly foreign passports. It is difficult to verify foreign passports with the issuing agencies, and to recognize them if you are not familiar with what authentic foreign passports should look like. DMV workers are used to seeing U.S. passports and can identify forged ones, but the same is not true for foreign passports. This challenge can be mitigated through training and providing templates of foreign passports; however, this would require more resources and lengthen the process.

Nevada is the only state that currently utilizes the layered system for driving privilege cards. They ask for consular identification cards and foreign passports. Consular identification cards can be problematic; both the FBI and the Government Accountability Office (GAO) have testified before Congress that Mexican consular cards are easy to obtain fraudulently. The GAO found in some instances that one could fill out a survey, pay \$25, and receive the document. The FBI has noted that the security features of Mexican consular cards are easy to counterfeit. The Mexican Embassy in Vermont has provided briefings, but the Coalition hasn't been able to verify if the features are state-of-the-art.

There is no good way to electronically verify the authenticity of foreign documents. Mr. Meehan noted the Delaware DMV can verify his passport with the U.S. State Department, including his name, birthdate, and the passport number. This constitutes an important layer of security. All 11 states that currently issue driving privilege cards require either a consular identification card or a foreign passport.

The Coalition recommends that the Task Force allow the DMV to decide which documents to require for issuing driving privilege cards. That would allow the DMV to decide which documents are secure and communicate with different embassies about consular cards. There are 180 consulates in the U.S., many of which issue consular cards with varying levels of security features. A blanket mandate to accept all consular cards would lack precision since not all consular cards are equally secure.

Mr. Meehan then proceeded to discuss the appearance of driving privilege cards in other states. He commented that Nevada issues driving privilege cards that are visually distinct from driver's licenses and are marked "not valid for identification." The card issued in Illinois is visually distinguishable, is a different color than the driver's license, and is marked "not valid for identification." The Utah driving privilege card is similarly distinct from a driver's license and is

marked “not valid for identification,” and “driving privilege only.” These cards allow Transportation Security Administration (TSA) and other federal level agents to see that a card does not meet the requirements of the Real ID Act and therefore cannot be accepted for official purposes.

Mr. Meehan commented that the Real ID Act is federal law and is a requirement. He then concluded his presentation and asked if there were any questions.

Mr. Torrijos asked whether the Coalition has found one card among the states which issue them that is preferable in terms of security features.

Mr. Meehan clarified Mr. Torrijos’s question about the relationship between physical security of the cards and the level of fraud. He commented that the challenge in generalizing the relationship is that, with the exception of Washington, New Mexico, and Utah, the states have not been issuing the cards for very long. He added that Washington, New Mexico and Utah have seen a lot of fraud. Illinois has only been issuing Temporary Visitor Driver’s Licenses (TVDLs) since January 1, 2014; since that time they have issued 15,000 TVDLs. However, undocumented immigrant applicants are included with all other non-citizens in the count of TVDLs. The FDC and Department of Justice simply do not track driver’s license fraud. There have been some cases in Nevada in which individuals attempted to obtain driving privilege cards but did not because the documents did not hold up. Overall, however, it will take time for cases to come forward in order to establish the relationship between card security and fraud.

Director Cohan, representing the Delaware Division of Motor Vehicles, commented that while Washington, New Mexico, and Utah have all had problems with fraud, Utah has experienced the least amount of fraud.

Mr. Torrijos asked the Director why it is that Utah has experienced the least amount of fraud of those states that have had driving privilege cards the longest.

Director Cohan responded she does not know why.

Mr. Meehan stated it is easy to obtain many of the accepted documents for driving privilege cards. He continued that one of the most common types of driver’s license fraud is when an individual with an invalid license uses a different identity to obtain a new driver’s license. This includes cases in which a person’s license has been rendered invalid due to multiple DUIs, tickets, evasion of child support, etc. The bottom line is that these people shouldn’t have been on the road, but still needed to be (for work, school, etc.), and so they used a different identity to get a new license.

Commissioner Stewart, representing the Delaware Department of Insurance, shared when she applied for a passport she did not have a birth certificate to produce. Instead, she provided her baptismal record, which was accepted by the agency.

Director Cohan replied that therein lies one of the problems with passports: it is more difficult to get a driver’s license in a Real ID compliant state than it is to get a passport. Further

complicating the problem is the fact that one of the documents needed to obtain a passport is a driver's license.

Ms. Calvachi-Mateyko, referencing information she read previously, stated that the Mexican consulate requires the following documents for a consular card: a photo ID, and either a voter registration card, passport, or military service card. If an applicant cannot provide these documents the consulate confirms the applicants' identity by investigating his or her background using authorities in Mexico. Additionally, an applicant must provide proof of residence, an example of which is a utility bill. Then this information is sent to the Central Registry in Mexico. Ms. Calvechi-Mateyko stated that the cards can be verified.

Ms. Calvechi-Mateyko shared that many years ago it was easy to get a consular card, but now it is not. She then stated that part of the problem is how states close to the border have gone about issuing driving privilege cards; they made a mistake in just giving them out, so of course fraud has occurred. Delaware is in a different situation because the state is not close to the border and is learning from other states' experiences.

Ms. Peña Porretti asked if a passport has to be current and unexpired to be accepted as a document.

Scott Vien, on behalf of Task Force member Director Cohan of the DMV, replied passports must be current and unexpired.

Ms. Peña Porretti responded there are a lot of people in Sussex County whose passports are expired. This creates problems when trying to register children in school. As a result, staff members from La Esperanza continually have to go to schools with clients to request that their children be registered despite having expired documentation. It is difficult for people with undocumented status to obtain a valid passport.

Mr. Meehan responded that the challenge is that nine times out of ten people applying for cards are not committing fraud. However, the system needs to be layered so that identities can be verified by the issuing agencies. He noted that the Delaware DMV has an automatic system that electronically dials the Social Security Administration and State Department to verify documents. Those systems do not exist for foreign documents. In the cases of Utah and Mexico, their offices have relationships with the local consulate offices in which they conduct a thorough review to verify documents. This is a time-consuming process and would likely add to wait times at the DMV.

Ms. Peña Porretti asked Mr. Meehan if his recommendation is to use both the consular card and the passport for identification, rather than just one document or the other.

Mr. Meehan responded he would not recommend using a consular card for identification without reviewing the specific government from which it is issued and the ability of the DMV to confirm the document electronically, which currently does not exist. Further, the identity threshold for obtaining a driver's license is higher than what it is for a driving privilege card.

Ms. Peña Porretti asked if Mr. Meehan has seen a large population of people with expired passports trying to obtain driving privilege cards, and if so how was that dealt with.

Mr. Meehan replied the Coalition has not had to look at large groups of people with expired passports. He added that a few years ago the I-9 requirements were updated to include the words “unexpired license” and “unexpired passport.” That changed significantly, however, when the final regulation went through without a problem. Employers had to educate their Human Resources personnel that they could no longer accept expired documents. Mr. Meehan does not think the large unemployment numbers can be attributed to this change.

Mr. Torrijos asked what form of identification Mr. Meehan would recommend for the State of Delaware to accept for applications for driving privilege cards.

Mr. Meehan referred to his superior, Brian Zimmer, who has generated a comprehensive list of documents, including the Mexican voter ID card, which is issued by a third-party commission, is secure, and is difficult to obtain fraudulently.

Brian Zimmer elaborated, stating the demand for unexpired passports is due to the fact that there is a large underground market for expired passports, which began for U.S. citizens. There are brokers and networks in the market, and people are given expired passports that resemble their appearance. This allows people to evade child support, alimony, banks pursuing foreclosure, etc.

Mr. Zimmer cited an example of the man in Boston who was convicted of numerous murders; the man had multiple, valid yet expired passports and licenses, which made it difficult to catch him. There have also been hundreds of cases of ex-mafia members being found alive after having been certified dead because they used fraudulent passports.

There are four or five states that are still incredibly lax on the issue, although Delaware is not among them. The foreign embassies for Delaware are located in D.C. Some of them, including the Mexican Embassy, arrange to provide passports to their citizens in your locale on a rotating basis. Mr. Zimmer stated the number one document he recommends is an unexpired passport from an individual’s originating country.

Representative Miro asked what the criteria is for being issued an international license.

Mr. Meehan responded there is not an international license that is universally recognized. However, the American Automobile Association (AAA) offers certified translations of driver’s licenses. Additionally, there are agreements between South Korea and a number of states recognizing valid driver’s licenses.

Representative Miro asked if any of the states have such a license.

Mr. Meehan stated that such a license does not exist.

Representative Miro responded that when he travels to Europe or certain places in South America, such as Chile and Argentina, he can get an international license. But if someone from those countries comes to the U.S., they cannot get a license, even if it is temporary.

Director Cohan clarified that in the United States there is no such thing as an international license. Currently Delaware has reciprocity with France and Germany, and is working on establishing reciprocity with Denmark. Other states have reciprocity agreements with other countries. If you search for “international driver’s license” online a website will show up; however, it is not legitimate. The DMV is having a hard time educating people about this.

Representative Miro said that Americans can go to some other countries and obtain a temporary license or permit to operate a vehicle.

Director Cohan emphasized that those permits are temporary.

Mr. Meehan illustrated the challenge of issuing an international license by asking Task Force members to consider how hard it would be to apply for a national driver’s license that tests knowledge and familiarity with the rules of all 50 states, plus the U.S. territories. Such a process would be exhausting.

Representative Miro requested Mr. Meehan clarify his point.

Mr. Meehan clarified that by comparison, a driver’s license that tests for knowledge of driving rules in more than one country would be exhausting.

Representative Miro indicated he does not share Mr. Meehan’s view.

Ms. Calvachi-Mateyko clarified that when other countries issue temporary licenses, they do not test for driving knowledge; rather, they assume that if you have a license from your home country you are fit to drive. Ms. Calvachi-Mateyko asked if an Ecuadorian citizen visiting the U.S. on a tourist visa for a period of one month can use their home country license to drive.

Director Cohan responded yes.

Ms. Calvachi-Mateyko then stated that it would be lawful for someone on a tourist visa to drive in Delaware with a license from their home country.

Mr. Torrijos asked if one has to get permission from their home country to drive in the United States. He cited the example of his uncle, who went to the American Embassy in Colombia to get permission to drive in the U.S.

Director Cohan stated that as long as the DMV can validate that someone is in the country on a temporary basis, they are allowed to drive using their home country license. Normally the DMV issues licenses for eight-year periods. If someone is in the country temporarily, she will get a license that is valid for the same length of time that she is authorized to stay in the country.

Mr. Torrijos asked if such a person would get a special license in that case, or use her current license.

Director Cohan responded she will get the same card everyone else gets.

Jose Somalo stated that has been the experience he has had with people visiting.

Ms. Calvachi-Mateyko stated she appreciates the Coalition for coming; however, she has been aware of the Coalition and other national organizations generating fear about fraud. The campaign has been detrimental to immigrants, specifically Latinos. Ms. Calvachi-Mateyko believes the Task Force should be careful, and not let fear prevent the group from coming up with a lawful plan that works.

Director Cohan agreed with Ms. Calvachi-Mateyko's statement, and said she thinks that is the point of the Task Force: to explore all the issues. She also said that Ms. Calvachi-Mateyko made a good point about border states having certain issues that Delaware does not. However, Delaware had 10,000 cases of multiple identities, 1,300 of which were cases of criminal activity. The Director said she thinks that the Coalition came to the meeting to make the Task Force aware of this problem, not the issue of fraudulent/criminal activity of undocumented immigrants.

Mr. Zimmer offered his thoughts that with the internet it is easy to demonize those with whom you do not agree. He said that there is 10-12 year old information online that attacks the Coalition's position on driver's licenses. Currently, however, there is an official position of the Coalition's Board of Directors supporting the concept of driving privilege cards with safeguards. Mr. Zimmer emphasized that the Coalition supports the Task Force's mission and wants to educate about the best ways to formulate driving privilege cards. The Coalition thinks Delaware is on the right track. The questions that are being raised by Task Force members are intelligent and on point. The Coalition provided the State of Vermont with a document listing highly reliable documents. They do not want to publish these in order to protect these documents from being targeted. If the DMV wants the Coalition to provide that list to them, they will. Mr. Zimmer concluded that he is delighted to be at the meeting and thinks it is an excellent proceeding.

Senator Townsend thanked Mr. Zimmer, and then invited Commissioner Stewart to speak.

Commissioner Stewart asked if her cousin from Argentina could get a driver's license if she came to work in the U.S. and had a valid Argentinian passport and driver's license.

Director Cohan replied that if that person's visa can be validated, then they could get a regular driver's license.

Commissioner Stewart asked what would happen if her cousin came as a guest visiting the country.

Mr. Vien replied that if someone is just visiting they would not be issued a Delaware driver's license; rather, the person would be able to use their home country license for up to 30 days.

Senator Townsend asked if the Mexican Embassy's rationale behind facilitating the issuance of unexpired passports to Mexicans in America is to help those who are undocumented and have expired passports.

Mr. Zimmer responded that Mexicans represent the largest group of undocumented immigrants in the U.S. He added that some of these individuals only work in the U.S. seasonally. Additionally, Mexico and the U.S. are part of the North American Free Trade Agreement (NAFTA), which provides accommodations to Mexicans in the U.S. that immigrants from Asia or other places would not get. The Mexican legislature has tried to improve U.S. relations by directing their Embassy to reach out to Mexicans living in the U.S. in order to provide two current documents: a passport, and a voter ID card.

Senator Townsend replied he just wanted to confirm whether the aim of the Mexican Embassy's efforts was specific or broad.

Mr. Zimmer responded that there have been a number of reasons for the efforts, but a few years ago the legislature allowed expenditures to make sure that Mexicans in America have passports and can get them renewed easily.

Senator Townsend said he is curious whether, if Delaware were to move forward, it would be possible to facilitate the updating of documents for large groups of immigrants from other countries.

Mr. Zimmer replied there are three countries that go out of their way to make sure their citizens have updated documents at an affordable cost: Mexico, Honduras, and Guatemala.

Darlene Battle, on behalf of the Delaware Alliance for Community Advancement (DACA), referenced the proposed requirements for obtaining a driving privilege card that was presented in the first Task Force meeting. She specifically mentioned having two years of tax forms and being ineligible for a Social Security card. Ms. Battle stated that she thinks the Task Force has gotten away from these proposed requirements.

Senator Townsend acknowledged Ms. Battle's comment, and then invited Ms. Calvachi-Mateyko to speak.

Ms. Calvachi-Mateyko responded to Mr. Zimmer's comments about foreign embassies by stating that although the embassies are spending more money and engaging in more outreach, the process is still more difficult for citizens to get their documents. People have to wait three or four months to get documents. Ms. Calvachi-Mateyko said it would be a good idea to invite Mexican and Ecuadorian consulate agents from Philadelphia to educate the task force.

Senator Townsend invited Director Cohan to speak.

Director Cohan asked if a member of the public who wished to speak could do so.

Senator Townsend agreed.

Kevin Andrade stated that consulates from Mexico, Guatemala, and other countries have been visiting communities in Delaware, including Georgetown and Milford. In the next two months

the embassies will be coming to Delmarva to facilitate the issuance of passports. The Mexican and Guatemalan embassies ask for documents such as a birth certificate and another form of ID they obtained in their countries before. It is not a very hard process. Once proper documentation is received, it takes about an hour to create a new passport, which costs about \$90. These processes are secure.

In Delaware approximately 60% of the Hispanic immigrant population is from Mexico; another 20% is from Guatemala.

Senator Townsend thanked Mr. Andrade. The Senator then referenced Ms. Battle's comments and asked Director Cohan about the proposed requirements for issuing a driving privilege card.

Director Cohan responded that the two years of tax forms would be required to establish residency in Delaware. This would help to ensure that Delaware does not experience an influx of non-residents attempting to obtain a driving privilege card. A valid passport or other document from one's originating country would also be required. The DMV already allows undocumented individuals to own and register a vehicle. The DMV wants to continue this dialogue.

Senator Townsend thanked Director Cohan for the clarification and invited Mr. Torrijos to speak.

Mr. Torrijos stated that everyone in the community wants to ensure that identities are verified and that the identities of Delawareans are not compromised. At the same time it is important to establish a driving privilege card. Mr. Torrijos said he did not know what other forms of ID other than a national voter registration card or valid passport could be used, but the Task Force should look to the DMV and Homeland Security for guidance.

Director Cohan replied she likes the idea of having flexibility to decide which forms of ID to accept; she noted that since the Real ID Act passed, certain forms of ID have become more secure and thus have been added to the list of acceptable documents.

Senator Townsend asked if there were any other questions or comments on the issues that had been discussed. Seeing none, the Senator invited the Department of Insurance to present.

PRESENTATION BY DEPARTMENT OF INSURANCE

Commissioner Stewart began the presentation by explaining that she and Deputy Commissioner Gene Reed recently attended a conference for the National Association of Insurance Commissioners (NAIC). Part of the conference entailed working on model laws to be adopted by states. The Commissioner then introduced Mr. Reed and stated he would lead the presentation.

Gene Reed thanked Senator Townsend, the Coalition for a Secure Driver's License and Director Cohan for coming together to make roads safer for all Delawareans. He further thanked them for providing documentation on the creation of the Task Force, which Mr. Reed used to present to a committee at the conference. The presentation was well received. Although the committee did not have questions, they were willing to use the information presented for the Auto Insurance C & D study group, which is chaired by Commissioner Joe Murphy of Massachusetts. The group

will include the information in a white paper under a section for “emerging issues.” In this way the information will be disseminated to all 50 states and jurisdictions. Mr. Reed said he will continue to work with CSDL to obtain national statistics on undocumented individuals for subsequent presentations on emerging issues.

Once people have a driving privilege card, they will need to obtain insurance in order to drive legally in the state. This will decrease the number of uninsured drivers on the road, and increase the amount of money insurance companies receive. The State will also benefit through the premium tax that is collected on auto insurance.

Mr. Reed cautioned that the availability and affordability of auto insurance needs to be considered. In Delaware companies are not required to write auto insurance. As such, it is likely that drivers with privilege cards will be assigned a level of risk that requires them to pay three or four times more for their premiums. However, the American Insurance Association (AIA) and the Progressive Title Insurance Agency (PTIA) have indicated they would underwrite for such drivers. Mr. Reed said the underlying issue of affordability is the underwriting guidelines companies use. A person who has no driving history in this country and who hasn’t had insurance in the past 30 days could have the same premium as a 16 year old who purchases his/her own insurance policy. Mr. Reed would like to work with the Coalition to develop a section for the aforementioned white paper so that the issue will be shared nationally. He said that if Senator Townsend concurs, he will present at the next conference meeting in August to educate on the background of the issue and the impact it has had nationally.

Senator Townsend gave his consent and expressed appreciation of the cross pollination presented by the opportunity to present at the next NAIC conference. The Senator then asked if anyone had questions or comments.

Representative Keeley asked if Mr. Cochran had a response to Mr. Reed’s remarks about affordability.

Bryan Cochran acknowledged Delaware is an expensive state for auto insurance, and is among the top ten most expensive states. New Castle County is expensive to insure because it is densely populated. The presence of Interstate 95 (I-95) also drives up insurance rates. Additionally, the fact that the overall population of Delaware is small contributes to higher rates, particularly when serious accidents, such as those involving buses, occur. All insurance companies file their rates with the Department of Insurance, which approves the rates before the policies can be sold.

Mr. Cochran stated that the industry is competitive, and the company that does the best will match the price to the needs of its customers. If a company’s price is too high, customers will go elsewhere; if a company’s price is too low, they will have costs when people submit claims.

Mr. Reed stated Mr. Cochran was correct, and added that premiums are based on expected losses, not the customers’ ability to pay. The Department scrutinizes the rates submitted by insurance companies.

Representative Keeley asked Mr. Cochran about the case Mr. Reed referenced in which an adult with no U.S. driving history applies for insurance.

Mr. Cochran said that when someone with no driving history applies for a policy with State Farm, including adults who have valid driver's licenses from another country, their policy is handled by the standard company for a period of one year, at which point the policy is reevaluated. If the individual has not had any accidents or tickets in the first year, they can get cheaper rates through State Farm Mutual Automobile Insurance Company.

State Farm is trying to better match its prices to customers. One technique to do so involves the use of a device that measures how someone drives. This would benefit drivers who are careful and do not travel long distances, who would be eligible for a discount; however, drivers that travel long distances would not benefit from the device.

Representative Miro asked if it would help to have individuals take a road test.

Mr. Cochran replied that companies assume if a person has a driver's license they qualify to drive and have already taken a road test. The problem is when an individual does not have a driving record in the United States to refer to. Such an individual would be assessed the same as a new driver.

Representative Miro asked if that statement is true even if an individual takes both a written and road test.

Mr. Cochran replied yes.

Representative Miro asked if the policy Mr. Cochran referred to is applicable to all insurance carriers.

Mr. Cochran said he can only speak to State Farm's policies. However, he said he suspects that most companies try to accommodate foreign drivers. He reiterated that the field is competitive, so companies have to do whatever they can to stay competitive. For example, State Farm is trying to accommodate customers who speak other languages.

Senator Townsend asked if the industry or the Department of Insurance can devise a way for adult drivers with no driving history to demonstrate that they do not carry the same level of risk as a new driver, in order to qualify for a lower premium.

Mr. Cochran said he does not know if that can be done, however, the State has a driver safety course available to the public, which can qualify drivers for an auto insurance discount of up to 15%.

Senator Townsend asked for confirmation that the discount one receives for the driver safety course is smaller than the discount one would get for being an adult, experienced driver.

Mr. Cochran indicated that he believes the Senator is correct.

Senator Townsend said he is curious if something can be done through legislation or working as a Task Force to have an option for people to qualify for a lower premium sooner that better reflects their actual risk. The Senator then referenced Representative Keeley's question about

what State Farm and other insurance companies are doing in states that already issue driving privilege cards. Senator Townsend proposed that Mr. Cochran could present on that information at future meetings.

Mr. Cochran replied that those with driving privilege cards in other states are treated like all other drivers.

Senator Townsend asked if that means that those people pay high premiums when they get a policy.

Mr. Cochran replied yes, and added that once those people demonstrate safe driving they are eligible for lower premiums.

Commissioner Stewart informed the Task Force that insurance companies use lineal pricing models that take many factors into account. As such, two neighbors with the same kind of car may pay different insurance rates. There are multiple price points, which take safety features into account.

Senator Townsend said he is curious how far the multiple price points concept can be stretched while still maintaining public safety. The Senator said he would like to hear more from the Department and the industry about what's happening in other states and how Delaware could handle the issue.

The Senator said he wants to make sure that in going through this process, insurance is affordable for drivers with privilege cards. He noted, however, that many people who would benefit from driving privilege cards may have the income to afford insurance. The Senator advised the Task Force that they should not assume that the population is entirely low income. He added that there could be implications for U.S. citizens who, due to the Recession, may struggle with insurance affordability.

Recognizing that several people wished to speak, Senator Townsend invited Representative Miro, Mr. Torrijos, and Mr. Reed to speak, respectively.

Representative Miro said one of the goals for the insurance industry is to insure as many people as possible. If premiums are too high they are not obtainable to the people who need insurance. There needs to be an adjustment for drivers who have experience, however, the Representative does not want to dictate what that should be.

Mr. Cochran agreed with Representative Miro's comment about experience, and elaborated that the experience needs to be verified. It is difficult sometimes to verify someone's passport, so it may be difficult to verify a foreign driver's license as well. Mr. Cochran indicated he has a lot of thoughts about affordability.

Senator Townsend said he would like to give Mr. Cochran time to discuss affordability at a future meeting.

Mr. Cochran said that in order to set the stage for that discussion at the next meeting, he wanted to let everyone know that the State sets the mandatory minimum for insurance coverage.

Senator Townsend reiterated the importance of the topic and his interest in learning more at the next meeting. The Senator then invited Mr. Torrijos to speak.

Mr. Torrijos said one concern is that the community is below the poverty level. He would like to work with the insurance companies. He suggested that the insurance companies or state agencies could offer safety courses to the community at a discounted rate. Some people within the community who are seeking insurance are being taken advantage of. For example, some people are being charged two to three times more for their policies.

Commissioner Stewart responded to Mr. Torrijos's comments by stating that the minimum amount of insurance coverage is set at the current level in order to be affordable for low income drivers.

Mr. Reed added that there is difference between underwriting and actuarially substantiated rates. He surmised that insurance companies probably already have rates figured out for 40 year olds who have not had insurance for the past 30 days, given the number of accidents they have had. He agreed with Mr. Cochran that insurance companies want to be competitive in this emerging market.

Mr. Reed then addressed the use of credit scores in issuing new policies. Credit scores are not allowed to be used for existing policies, but are allowed for new policies. This could be detrimental to undocumented immigrants who do not have a credit history in the U.S.

Senator Townsend thanked Mr. Reed for his input.

DISCUSSION OF LEGAL ISSUES

Senator Townsend then introduced the next item on the agenda: discussion of legal issues. He invited Task Force members to discuss what questions they think the Attorney General's Office might be able to answer. He noted that several questions arose at the previous meeting, including whether the federal government can compel the State to provide information. James Collins of the Governor's office suggested looking at language in statutes that stipulate information can only be given to another agency if a criminal matter is being investigated. The Senator invited Task Force members to submit legal questions.

Mr. Torrijos voiced his concern over what would happen if someone with a driving privilege card submitted their card to their employer. Mr. Torrijos specifically wanted to know if an employer would be obligated to contact ICE.

Senator Townsend clarified that they would not necessarily get answers to these questions at this meeting, but would note them for future meetings. The Senator then invited more questions to be aired.

Ms. Velasquez asked if there are other populations that would benefit from driving privilege cards besides undocumented immigrants. If not, then having a driving privilege card would automatically indicate that one is an undocumented immigrant. Ms. Velasquez cited an example

of other states that issue the same kind of license to all immigrants, regardless of legal status. Such cards do not automatically imply undocumented status.

Mr. Zimmer explained that in Illinois H1H2 temporary workers have experienced a lot of hardship as a result of being categorized along with other groups of immigrants. A lawsuit has been filed by a group of employers and legal, temporary employees because they are being scrutinized by ICE along with undocumented immigrants who possess the same type of license. The concept of the license is well intentioned but has worked against legal immigrants. If Illinois had put as much time into the creation of its license as Delaware is doing, they would have avoided this unfortunate circumstance.

Ms. Velasquez clarified she was not recommending that type of license, but just making sure the issue is explored.

Director Cohan clarified that driving privilege cards address undocumented immigrants only. All other drivers with any type of legal status are covered by regular driver's licenses.

Ms. Peña Porretti commented that La Esperanza does not anticipate that driving privilege cards will be provided to employers. Some people may not want to self-identify to their employers. Additionally, these people are already working, so they will use the card only for the intended purpose of driving.

Senator Townsend, referencing Mr. Torrijos's concern, noted that there still could be situations in which an employer sees an employee's driving privilege card by accident in the cafeteria. In such situations, the question of employer liability remains.

Mr. Torrijos confirmed that the Senator's statement speaks to his concern. He does not want the driving privilege cards to be used to identify undocumented immigrants to ICE. The community is already afraid. He would want to educate people that employers cannot ask for their driving privilege cards.

Senator Townsend commented that the idea of creating a legislative prohibition on private employers is worth discussing, but is a sensitive topic. The Senator said he does not know if this concept triggers a response from the Attorney General's Office, or if from an employment law standpoint there are statutes that dictate whether an employer must or is able to ask for a document.

Mr. Torrijos responded that his point is that the card is not for identification purposes, only driving, so that is how it should be treated. A license, on the other hand, is a form of identification.

Senator Townsend pointed out the cards would be marked "not for identification" so that banks and other establishments would not use them for verifying identity. That is different than prohibiting employers from asking to see the card. The Senator does not know if that is legal.

Representative Keeley suggested research could be done on how other states with driving privilege cards handle this issue. Rep. Keeley then stated that many employers of undocumented immigrants may already know who they are hiring.

Senator Townsend assured that if a system is to be created for driving privilege cards, it will not be set up so that people will be reported to ICE. The Senator then noted that there are employers who rely on undocumented immigrant labor who are not represented in this process and discussion.

Mr. Torrijos said that is his point. There is an industry in Delaware which relies on undocumented labor. The industry shares his concern about being required to report individuals to ICE.

Commissioner Stewart stated federal law does not allow employers to ask for certain types of ID, and noted that Mr. Reed is well versed on this topic.

Senator Townsend indicated he would like to hear Mr. Reed address this topic at a future meeting within a larger discussion on employment issues.

Mr. Reed raised the issue of reciprocity with other states. He questioned if someone is issued a speeding ticket in a non-reciprocal state, would the stop be reported to Delaware. Another question Mr. Reed brought up was what would happen if an accident occurs on the New Jersey side of the Delaware Memorial Bridge, would that accident be covered by an insurance policy.

Director Cohan said the DMV cannot guarantee reciprocity with any other state.

Mr. Reed referenced again his question of whether insurance companies would be notified of such violations for rating purposes.

Director Cohan responded they would.

Mr. Cochran said the policies are standard. There is no separate policy for drivers with privilege cards, so you would be covered just like everybody else. You would be covered in any other state regardless of whether that state recognizes the driving privilege card.

Ms. Battle stated Delawareans should decide what happens if a person with a driving privilege card gets into an accident in another state, for example, whether the card should be revoked.

Director Cohan said the home rules would apply regardless of where the accident occurs.

Mr. Cochran said if you have an accident in a state other than the one in which you live, the courts will go through a choice of law process to determine which state law(s) best applies to the situation. We can only legislate what will happen in Delaware.

Senator Townsend acknowledged the importance of structuring legislation in Delaware.

OPEN DISCUSSION BY TASK FORCE

Senator Townsend invited general discussion of Task Force members, and noted that the topic of an education campaign should be discussed at a future meeting.

Mr. Cochran stated there is legislation around the country in other states to “ban the box” on job applications that pertain to past convictions.

Senator Townsend responded that legislation is out of committee and will hopefully be heard on the floor soon. However, this legislation would apply only to state employers.

Mr. Cochran asked if it also applies to business that contract with the State.

Senator Townsend said he does not know; however, he believes that either Wisconsin or Minnesota passed “ban the box” legislation that applies to private employers as well. The Senator does not think that it has been challenged in court. Target has adopted “ban the box” as part of its corporate policy.

The Senator acknowledged that there is precedent to regulate employer behavior, and reiterated Representative Keeley’s comment that most employers of undocumented individuals already know their workers’ status.

Mr. Torrijos referenced the DMV’s proposal to issue driving privilege cards for four-year periods, and asked what would happen if someone’s passport is valid at the time they receive the card, but expires during the four-year period.

Director Cohan asked Mr. Vien to address Mr. Torrijos’s question.

Mr. Vien replied that if a passport expires in the future, that’s okay. At the time of license renewal, an individual must have a current, valid document.

Senator Townsend asked if there were any other questions or comments.

PUBLIC COMMENT

Senator Townsend invited public comment.

Mr. Andrade said that he does not think there will be an issue with employers. The IRS already allows people to file under a different name. He does not think people who use different names will use driving privilege cards as identification for work purposes.

Mr. Andrade is concerned, however, about law enforcement response to people with driving privilege cards. There are local police officers in Dagsboro, Oceanview, and Millsboro who ask people what their legal status is when they get pulled over. He does not think this is legal, so the issue should be discussed with the Attorney General’s Office.

An additional concern is secured communities that allow law enforcement to question and fingerprint people suspected of criminal activity. Mr. Andrade would like to see how the Attorney General’s Office would handle this.

There have been hundreds of tickets being issued to undocumented immigrant drivers, many of which are given by a select few police officers in Sussex County. Mr. Andrade is concerned about racial profiling.

Senator Townsend thanked Mr. Andrade for his comment. He further thanked members of the Task Force at large for their participation. The Senator stated that details of the next meeting will be forthcoming.

The meeting was adjourned at 7:26 p.m.

Delaware Undocumented Motorist Safety and Insurance Task Force

April 2, 2014
Dover, DE

Andrew Meehan
Policy Director
Coalition for a Secure Driver's License

About the Coalition for a Secure Driver's License

- ▶ CSDL was founded in 2001 following the terrorist attacks of September 11, 2001.
- ▶ Founded under the notion that a **driver's license has become the preferred form of identification** in the United States.
- ▶ The U.S. driver's license is used for numerous identity verification purposes from signing a lease to opening a bank account.
- ▶ As such, **criminals will always seek to fraudulently obtain a driver's license** under an assumed or fictitious identity to carry out their criminal activities.
- ▶ At CSDL, we try to educate stake holders and policy makers on the dangers of driver's license fraud and the value of securing the driver's license.

Driver's License Fraud Related Crimes

- ▶ License is suspended or revoked
- ▶ Obtain firearms
- ▶ Check fraud
- ▶ Identity theft and fraud
- ▶ Avoid paying child support
- ▶ Benefit fraud
- ▶ Avoid sex offender registration laws
- ▶ Obtain additional documents, e.g. passport
- ▶ Social Security fraud
- ▶ Avoid detection by law enforcement

CSDL's State Awards Program

- ▶ Document Security
- ▶ National Security
- ▶ Public Engagement
- ▶ Identity Protection



Delaware Identity Protection Award

- ▶ CSDL Awarded Delaware the Identity Protection Award in 2012 for
 - Taking extra steps to protect the identity of their applicants;
 - Mitigate the risk of insider fraud; and
 - Pursue cases of fraud.



How do states confirm identity?



- ▶ Layered System of Identity Verification



Documenting the Undocumented

- ▶ Foreign Documentation is difficult to verify – cannot be done electronically
- ▶ Difficult to recognize
- ▶ Motor vehicle agencies must be selective about the documents they choose to accept

Consular Identification Card

- Easy to counterfeit
- Difficult to verify
- Easy to obtain fraudulently



REAL ID Act



- ▶ The REAL ID Act and final regulation has two requirements for noncompliant licenses:
- ▶ 1. Noncompliant licenses must be physically distinguishable; AND
- ▶ 2. Must state on the face of the license that it is “Not acceptable for official purposes.”

Samples of noncompliant driver's licenses





Contact

Andrew Meehan
Policy Director
Coalition for a Secure Driver's License
(Keeping Identities Safe)
andrew_meehan@secure-license.org
(202)-312-1540