



## **AB 60 Driver's License Frequently Asked Questions**

**April 2015**

### **What is an AB 60 license and how can I use it?**

#### ***What is an AB 60 driver's license?***

Governor Brown signed AB 60 into law in 2013, which directs the Department of Motor Vehicles (DMV) to issue a driver's license to any California resident who is eligible, regardless of immigration status. This means that an applicant who is undocumented can receive a driver's license under AB 60.

AB 60 represents an enormous victory for the immigrant communities and for the state as a whole. Now immigrant parents can get driver's licenses so that they can lawfully drive their children, many of them U.S. citizens, to school and to the doctor. This law is also a big win for public safety because in order to get a license, applicants will need to show proof of insurance as well as to pass a written test on driving, an actual driving test, and a vision test.

#### ***How can I use an AB 60 license?***

An AB 60 license is valid for driving and for state ID purposes. An AB 60 license is not a federal ID and cannot be used for certain federal purposes, such as entering restricted parts of federal buildings. It does not give anyone the right to work, vote, or receive any benefits that the person wasn't already eligible for.

#### ***Is there any risk of using an AB 60 license with law enforcement?***

It is against the law for state and local law enforcement to discriminate against someone because he or she has an AB 60 license. This means that you can use your AB 60 license to identify yourself to California police officers if you get pulled over in a traffic stop.

But the law does not protect against discrimination from federal law enforcement or law enforcement from other states. Because of this, do not present an AB 60 license to federal officials, such as ICE, CBP, or TSA, or to law enforcement in another state.

#### ***Can I use an AB 60 license to board an airplane?***

We recommend NOT using an AB 60 license to board an airplane. There are two risks. First, the Transportation Security Administration (TSA) might not accept it. The TSA has been inconsistent regarding the acceptance of AB 60 licenses (or similar licenses from other states). Second, and more importantly, TSA officials could use the license as a basis to stop someone, question that person, and ultimately refer the person to ICE. AB 60 does not protect against discrimination by TSA officials, and the concern is that TSA agents may use an AB 60 license to flag people and refer them to ICE. If a person needs to fly, she should use other identity documents, such as an unexpired passport, and be aware that TSA engages in immigration enforcement.

#### ***Are AB 60 licenses available now?***

AB 60 driver's licenses are available now, as of January 2, 2015.

## What if I applied for a California driver's license in the past?

### ***If I had a valid CA driver's license in the past, can I apply for a new one under AB 60?***

If you applied for a driver's license in the past using only correct information, there should not be any problem in applying for an AB 60 license. Some people who are undocumented may have applied for a driver's license before California began requiring proof of lawful status in 1993. Other people may have had lawful status in the past and obtained a driver's license. If you used false information in a previous application to the DMV, see the following questions.

### ***If I applied for a driver's license in California using a fake name or social security number in the past, will I be at risk if I apply for an AB 60 license?***

The concern for anyone who used fake information in a prior driver's license application to the DMV is that the DMV could refer the person to criminal prosecution for fraud. BUT the DMV's current policy is not to refer anyone to criminal prosecution who previously applied for a license using false information so long as the false information did not cause any harm. If the DMV believes that the false information caused any kind of harm, including bodily harm, financial harm, harm to property, identity theft, or avoiding child support payments, the DMV may refer that person to criminal prosecution.

Under the DMV's policy, someone who has used a made-up social security number solely to apply for a driver's license in the past should be okay. Many people in this situation have successfully gotten driver's licenses under AB 60. But please note that the DMV's policy on this issue is not in writing, and all people who have used fake information in the past must be warned that there is no guarantee as to how the DMV will handle these cases.

### ***If I applied for a driver's license in California using someone else's social security number, will I be at risk if I apply for an AB 60 license?***

The DMV's current practice is not to refer people who have used false information to obtain a driver's license for criminal prosecution unless that false information caused harm to others. But it's important to remember that there are no guarantees, and that we're still learning what the DMV considers as "harm."

People who used fake information belonging to someone else to apply for a driver's license in the past may be at higher risk than people who have used made-up fake information. This is because if someone used information belonging to someone else (versus information that is made up), there's more of a chance that the DMV could think that the person was using the false information to harm others (such as for identity theft), especially if the person used the driver's license to open a bank account or for other activities that could be seen as for financial gain. If a person used someone else's information to apply for a driver's license in the past, the person should be prepared to answer questions about what fake information she used, why, and what she then did with the driver's license.

### ***How will the DMV find out about any prior driver's license applications?***

The DMV has records of prior driver's licenses and applications. The DMV will ask you for fingerprints and compare your fingerprints and other biographical information against its database to see if it has already received an application from you. You should assume that if you applied for a driver's license in the past, the DMV knows about it.

### ***How will the DMV decide whether the false information I used caused harm?***

Once the DMV realizes that you have used false information, usually a false social security number, in the past (either because you disclosed it or because the DMV found out through its own database), the DMV will give you a piece of paper called an "Application Review Notice." If you do not hear from the DMV within 60 days of receiving this notice, you can contact the telephone number listed on the form ((916) 657-2274) to schedule an appointment for the application review. The DMV has recently restructured the way that it conducts these interviews, and we are still learning about what may

happen at the appointment. We expect that you will be asked questions about what false information you used, why, and for what purpose. If the DMV thinks that you used the false information to cause harm, it might refer you to criminal prosecution. If not, it will issue you an AB 60 license.

## **What if I have received previous DMV fraud charges or convictions?**

### ***What should I do if I was arrested or charged with using false documents to obtain a driver's license in California?***

Please talk to an attorney. Whether you should go forward with an AB 60 application will depend on the charges you are facing or faced in the past and the facts of your case.

### ***If I was convicted for using false documents to obtain a driver's license in California, will I be at risk if I apply for an AB 60 license?***

If your case is already resolved, you may seek an AB 60 license so long as you apply using truthful information. It is important to remember that if you misrepresent anything on the new application (including the facts of what happened in the previous case), the DMV could file new fraud charges against you. Before you apply for an AB 60 license, make sure you fully understand what happened in the previous case so that you can make a decision whether or not to apply, and can fill out the driver's license form accurately if you do go forward.

## **What if I currently have a driver's license?**

### ***If I obtained a license from another state using my real information, will I be at risk if I apply for an AB 60 license?***

If you applied for a driver's license in a state that does not require a social security number and used only truthful information, there should not be any problem in applying for an AB 60 license. A person who lives in California is supposed to have a California driver's license, so we recommend applying for an AB 60 license if you now live in California, even if you have a valid license from another state. If the license from the other state is still valid, you will need to bring it with you to the DMV to transfer the license to California.

### ***If I obtained a license from another state using false information, will I be at risk if I apply for an AB 60 license?***

If you applied for a driver's license in another state by using any false information, such as a fake name or social security number, there is a chance that the California DMV might find out about it and investigate it as fraud. If you only used the false information for the purpose of obtaining a license you might be okay, but it is better to wait until we know much more. We are still learning how the DMV is handling these kinds of cases.

## **What if I got a DUI in the past?**

### ***If I was previously convicted of a DUI, will I be at risk if I apply for an AB 60 license?***

If you have a DUI conviction, you should think very carefully before applying for an AB 60 license. The Obama administration recently changed its enforcement priorities to include people with DUI convictions. The DMV will not proactively share information with ICE, but ICE can access DMV databases. This means that if ICE is already looking for you, applying for an AB 60 license could place you at greater risk of being found and put in deportation proceedings. Because the government is cracking down on people with DUIs, most people with DUIs should not risk applying for an AB 60 license at this time. But this is an individual decision. You may decide to get an AB 60 license even if you have a DUI if you are already in deportation proceedings, meaning that the government already knows about you, or if you have decided that it makes sense in your case to get a license.

If you do decide to apply for an AB 60 license, you will have to make sure that you completed all of the terms of the DUI conviction(s). The minimum penalties for a first-time DUI offense in California include a fine and attendance of an alcohol-treatment program. Did you complete the requirements (i.e. pay the fine and complete the treatment program)? If not, you will not be able to apply until you complete these requirements. If you have completed the requirements, you may apply. However, if the DUI conviction required license suspension as a penalty (as is often the case), the DMV will not issue your license until you have waited out the suspension time. The clock on the suspension time does not start running until you have applied for a license; so while you will not get your license right away, you should still apply so that the clock can begin to run. It is also important that you NOT drink and drive again. The criminal penalties get worse with each additional DUI, you have to wait even longer to get a driver's license, and you run a high risk of being placed in deportation proceedings.

## **What if I was deported in the past or have immigration applications pending?**

### ***I was deported a long time ago and came right back. Will this affect my ability to apply for an AB 60 license or place me at risk if I apply?***

Your immigration history is not a factor in determining your eligibility for an AB 60 license. However, if you have any criminal convictions (aside from minor offenses such as driving without a license), it might be risky to apply for a driver's license. The DMV will share your name, address, and photograph with law enforcement if you are under investigation. This means that if ICE is already looking for you and asks the DMV for information about you, then the DMV will provide it.

### ***I have a deportation order, but I did not leave. Will this affect my ability to apply for an AB 60 license or place me at risk if I apply?***

People with deportation orders, especially recent ones, may put themselves at risk of being discovered by ICE if they apply for an AB 60 license. Anyone ordered deported since January 1, 2014 is considered a priority for enforcement and deportation. While the DMV will not volunteer your information to ICE, if ICE is already looking for you and asks the DMV for information about you, the DMV will provide it. If you believe that ICE is looking for you, or if you have a recent deportation order, applying for an AB 60 license could place you at greater risk and is not advisable.

### ***I am in removal proceedings. Will this affect my ability to apply for an AB 60 license or place me at risk?***

Immigration history is not a factor in eligibility for an AB 60 license. The information that the DMV could share with ICE includes a person's name, address, and photograph. Because you are already in removal proceedings, and assuming ICE already knows your name, address, and what you look like, there does not seem to be any risk to your immigration situation in applying for an AB 60 license.

### ***I am currently undocumented, but I have an application pending with the government for a green card. Should I apply for an AB 60 license now or wait until I get lawful status?***

This is ultimately your decision, but applying for an AB 60 license now will not affect your immigration application and will not prevent you from getting a regular driver's license in the future. If you apply for an AB 60 license now, you can transfer it to a regular driver's license once you gain lawful status.

### ***I am eligible for deferred action (DAPA or expanded DACA) based on President Obama's executive action. Should I apply for a license now or wait to see if I can apply for deferred action?***

This is ultimately your decision. But the new deferred action programs have not begun yet. They are being litigated in court and it is unclear if or when they might start. Even once they do begin, it could take a long time before the applications are approved. In the meantime, if you get an AB 60 license now, you can drive lawfully while we wait for the deferred action process.