



**Statement by Gilles Bissonnette, ACLU-NH Legal Director
Senate Judiciary Committee
ACLU-NH Opposition to SB358
Hearing: January 23, 2024**

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (“ACLU-NH”), a non-partisan, non-profit organization working to protect civil liberties for over 50 years, including the rights of noncitizens. SB358 purports to invalidate the lawfully-issued out-of-state drivers’ licenses of undocumented immigrants. And law enforcement officers who stop a person for driving with an “invalid license” under this bill would also be required to charge the driver with a class B misdemeanor of driving without a license. Because this bill serve no purpose other than to punish undocumented individuals who are safe drivers, this bill should be deemed *inexpedient to legislate*.

SB358 Reduces Public Safety, Further Stigmatizes Immigrant Communities, Will Harm Tourism, and is of Questionable Legal Merit.

SB358 Reduces Public Safety: The roads are safer if everyone using them has passed a driver’s test and is licensed. States that have extended driving privileges to undocumented residents have seen the positive effect it can have on traffic.¹ But SB358, in undermining the validity of drivers’ licenses, would make New Hampshire roads less safe.

This is because drivers’ licenses promote public safety. By expanding access to driver licenses for undocumented residents, other states have helped increase safety in the roads. This happens through road test exams, driver identification, and car insurance usage. Drivers’ licenses also promote public safety because licensed drivers also are more likely to obtain some level of insurance, including liability insurance. However, SB358 would discourage a category of already-licensed and insured New Hampshire visitors and short-term residents—those who are undocumented—from driving with a license in the state when they have already been deemed to be able to drive safely. Because these individuals can drive safely, this bill is punitive towards these individuals and does nothing to improve safety.

Furthermore, law enforcement officers may use drivers’ licenses or state IDs to identify individuals they encounter. This can eliminate the need for officers to handle other identification documents, such as birth certificates or passports. A state-issued identification document helps officers focus on protecting the public rather than taking time away from their important duties to verify someone’s identity. In addition, this identification can be helpful to first responders in identifying people needing emergency medical assistance.

Driving is a Necessity in New Hampshire: Driving is a necessity for most residents and out-of-state visitors, as New Hampshire does not have a robust public transit system. Presently, people must either take the risk of driving without a license or rely on rides from others. Both are stressful and hugely inconvenient for workers trying to make ends meet. As a result, non-citizens who have out-of-state licenses will be forced to drive without a license or rely on others for a ride in

¹ Chris Burrell, “Licensed undocumented immigrants may lead to safer roads, Connecticut finds,” *NPR*, May 24, 2019. <https://www.npr.org/2019/05/24/719959760/licensed-undocumented-immigrants-may-lead-to-safer-roads-connecticut-finds> (“Four years after implementing a policy to allow undocumented immigrants to obtain driver’s licenses, Connecticut has seen a reduction in hit-and-run crashes and a steep decline in the number of people found guilty of unlicensed driving.”); Hans Leuders, Jens Hainmueller, & Duncan Lawrence, “Providing Driver’s Licenses to Unauthorized Immigrants in California Improves Traffic Safety,” *Proceedings of the National Academy of Sciences of the United States of America* (Nov. 17, 2016), <https://www.pnas.org/doi/pdf/10.1073/pnas.1618991114> (“We also find that, although AB60 had no effect on the rate of fatal accidents, it did decrease the rate of hit and run accidents, suggesting that the policy reduced fears of deportation and vehicle impoundment.”).

New Hampshire. Further, a non-citizen may unknowingly commit a crime by driving into New Hampshire—say, to visit family—without realizing that the act of crossing the state line invalidated their license.

SB358 Will Damage Tourism: New Hampshire also relies on a robust tourism industry, and this bill dissuades potentially millions of people from other states from visiting New Hampshire. New Hampshire tourism officials estimated that New Hampshire welcomed 4.5 million visitors during fiscal year 2023, a 3.3% increase from the prior year. These visitors have spent approximately \$2.3 billion, up 3.3% from the previous year.² Domestic travelers from other States are vital to maintaining our excellent tourism numbers. Dissuading even a few visitors, as SB358 will likely do, directly equates to less jobs being created in New Hampshire and lessens all associated economic impacts.

SB356 is of Questionable Legal Merit: This bill is also of questionable legal merit in that it requires that our state deviate from its commitments and obligations to recognize the validity of driver licenses issued by other U.S. states and jurisdictions. *First*, in the United States, states generally recognize the laws, records, and judicial proceedings of every other state. Nineteen states and D.C. currently provide undocumented immigrants with access to driver licenses. New Hampshire is not one of those states. While the issuance of drivers' licenses in other states generally does not obligate New Hampshire to issue identification to undocumented people, banning New Hampshire from recognizing these lawfully-obtained licenses is concerning.

Second, independent of any constitutional and right to travel concerns, New Hampshire is a member of the interstate Driver License Compact which appears to require that a participating state honor the validity of the drivers licenses other member states. This bill would undermine any obligations this statute imposes.³

Accordingly, SB358 should be deemed *inexpedient to legislate*.

² See N.H. Dep't of Business and Economic Affairs, "Record Setting Summer Tourist Season," <https://www.nheconomy.com/news-press/record-setting-summer-tourism-season#:~:text=According%20to%20the%20Division's%20research,percent%20from%20the%20previous%20year>.

³ "The Driver License Compact is an interstate compact used by States of the United States to exchange information concerning license suspensions and traffic violations of non-residents and forward them to the state where they are licensed known as the home state. Its theme is "One Driver, One License, One Record." National Council for Interstate Compacts at [National Center for Interstate Compacts Database \(csg.org\)](https://www.nheconomy.com/news-press/record-setting-summer-tourism-season#:~:text=According%20to%20the%20Division's%20research,percent%20from%20the%20previous%20year). Article I, Section (b)(2) of the Compact states, in part, that it is the policy of each state to "[m]ake *the reciprocal recognition of licenses to drive and eligibility* therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states." See <https://apps.csg.org/ncic/PDF/Driver%20License%20Compact.pdf> (emphasis added). New Hampshire joined the Compact in 1986 and enacted its language in full including its reciprocity provisions: "the reciprocal recognition of licenses to drive and eligibility therefor" Driver License Compact Article I(b)(1). See also RSA 263:77 (also noting Compact's acknowledgment of "reciprocal recognition of licenses"). SB358 would carve out a reciprocity exception which may constitute a breach of the Compact in that it would no longer accord full reciprocity to some Compact members.