

Driving Without Borders: The Legal Authority of Foreign Driver's Licenses on U.S. Roads

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Foreign driver's licenses present legal issues that regularly affect many municipal law practitioners, especially those who advise police departments or prosecute traffic violations in municipal court.

At a traffic stop, drivers may present a foreign driver's license or an "international driving permit" to police officers, purportedly to demonstrate that they are exempt from holding a state-issued driver's license. Additionally, such drivers, after being charged with a violation for not holding a valid driver's license, may appear in municipal court and present their foreign license in support of a request to dismiss the charge.

There are some circumstances when foreign driver's licenses do provide the requisite legal authority to drive in the United States, and others where they do not. Federal treaties provide guidance to municipal law practitioners related to the legal authority of foreign drivers to drive lawfully on U.S. roads.

Legal Authority of Foreign Driver's Licenses:

In general, under federal treaties, foreign drivers may lawfully drive on U.S. roads with a driver's license from their home country if they meet the following requirements:

1. Drivers must be citizens of a country that has entered into a treaty or other agreement with the United States granting reciprocal driving privileges to drivers of each country;
2. Drivers must have their home country driver's license or an international driving permit in their possession while driving;
3. Drivers must be at least 18 years of age; and
4. Drivers must have been in the United States for one year or less, proof of which may be established by a passport, visa, or other travel document.

Please note that certain Central and South American countries, including Mexico, are exempt from requirement #4 above (i.e. being in the United States for one year or less) due to the fact that they are party to a treaty without such a requirement. When foreign drivers change from being visitors to new residents, however, state laws related to obtaining a state-issued driver's license may be implicated and such drivers may no longer be authorized to drive lawfully on U.S. roads with their home country driver's license under the protection of federal treaties.

General Driver's License Rules and Federal Treaties for Foreign Drivers

Many U.S. states require that a person have a state-issued driver's license to drive on roads within that state, subject to reciprocity exemptions for persons who hold a driver's license issued by another state.[1] There are, however, two federal treaties to which the United States is a party that allow for persons visiting from certain foreign countries to drive lawfully on U.S. roads:

1. The *Convention on the Regulation of Inter-American Automotive Traffic* of 1943,[2] ("Inter-American Treaty"), and

2. The *Convention on Road Traffic* of 1949 ("Road Traffic Treaty").[3]

The provisions under the two treaties are similar: drivers from all participating countries, who are at least 18 years of age, may drive on the roads of other participating countries with their home country driver's license.[4] The Road Traffic Treaty is more comprehensive and involves more countries than the Inter-American Treaty. In fact, many of the countries that joined the Inter-American Treaty also joined the Road Traffic Treaty—and accordingly, for the countries that joined both treaties, the Road Traffic Treaty controls.[5] Because many more countries are subject to the Road Traffic Treaty, this article will primarily focus on its provisions.

A list of countries that have joined each treaty can be accessed through the websites of the Organization of American States (for the Inter-American Treaty) and the United Nations (for the Road Traffic Treaty), as noted on the "Treaties in Force" page of the U.S. Secretary of State website.[6] A list compiling these countries is included at the end of this article.

International Driving Permits

Under the Road Traffic Treaty, participating countries may require foreign drivers to hold an international driving permit ("IDP"),[7] essentially a reproduction of the person's home country driver's license translated into multiple languages, including English. When foreign drivers present their home country driver's license to police officers or municipal court personnel and it is not in English, it may be difficult to determine whether the card presented is actually a driver's license.

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For this reason, it may be beneficial for foreign drivers visiting the United States to obtain an IDP since police officers and court personnel may require presentation of an IDP to verify that the person has lawful authority to drive on U.S. roads.

"One Year Rule" and Different Standard for Certain Central and South American Countries

Under the Road Traffic Treaty, international driving privileges are limited to *one year* from the date that the foreign driver entered the country.[8] There is, however, a different standard for certain Central and South American countries. Nine of the countries that joined the Inter-American Treaty did not also join the subsequent Road Traffic Treaty,[9] and are bound only by the Inter-American Treaty, which does not have the corresponding "One Year Rule." These countries are: Brazil, Colombia, Costa Rica, El Salvador, Honduras, Mexico, Nicaragua, Panama, and Uruguay.[10]

The only requirements for citizens of these nine countries to have international driving privileges are that: (1) they are at least 18 years of age, and (2) they have a driver's license from their home country.[11] There is, however, a legal distinction to be made as to whether the person is a visitor or a new resident, which may affect the validity of a foreign driver's license under either treaty.

Visitors Versus New Residents

Both treaties appear to contemplate international driving privileges for *visitors* from foreign countries as opposed to *new residents*. Evidence of the person having a passport or visa would tend to support that the person is indeed a visitor to the United States and covered by one of the treaties. Without such travel documents, foreign drivers may be suspected of being new residents, having established residence in the state lawfully or unlawfully,[12] and thus may be subject to applicable state laws requiring new residents to obtain a state-issued driver's license. For example, in Texas, people who enter as new residents must obtain a Texas driver's license within 90 days of their date of entry in order to drive lawfully.[13]

For drivers from countries governed by the Road Traffic Treaty, which contains the "One Year Rule," the length of time that they have been in the United States could be established through a passport, visa, or other travel document. For citizens from countries governed by the Inter-American Treaty, which does not have the "One Year Rule," it is unlikely that they could drive on U.S. roads for an unlimited amount of time under the protection of the treaty. This is primarily due to the fact that the longer a person is present in the United States, the more likely it is that the person is no longer a visitor, but a new resident, especially if the person does not have a passport, visa, or other travel document which would tend to support visitor status. This scenario would present an interesting evidentiary matter for a court to decide, if, for example, the person is charged with not holding a valid driver's license and contests the charge at a hearing or trial.

Temporary Visitor Driver's Licenses

Foreign drivers may be able to obtain a state-issued temporary visitor driver's license as an alternative to driving only under the authority of their home country driver's license or an IDP. Like Texas, some states may provide authority for the state agency that issues driver's licenses to enter into agreements with foreign countries providing reciprocal driving privileges and allowing foreign visitors to obtain a temporary visitor driver's license under certain circumstances.[14] This option may be beneficial to foreign drivers because having a state-issued temporary visitor driver's license would clear up any issues about whether the person is a visitor or a new resident. Also, such driver's licenses have an expiration date showing police officers and municipal court personnel the length of time that the person is authorized to drive.

Conclusion

A foreign driver's license may provide a visitor from a foreign country the lawful authority to drive on U.S. roads under certain circumstances. When dealing with the legal authority of a foreign driver's license, it is beneficial for municipal law practitioners to be cognizant of issues regarding whether the driver is truly a visitor or a new resident, which could affect protections under federal treaties and implicate state laws requiring new residents to obtain a state-issued driver's license.

Notes

1. *See e.g.* Tex. Transp. Code §§ 521.021, 521.030(b) (West 1995).
2. Convention on the Regulation of Inter-American Automotive Traffic, Oct. 29, 1946, 3 Bevans 865, TIAS 1567, 1943 U.S.T. LEXIS 185.
3. Convention on Road Traffic, Mar. 26, 1952, 3 U.S.T. 3008, TIAS 2487, 1952 U.S.T. LEXIS 558.
4. *See* Inter-American Treaty, arts. 6-7, 3 Bevans 865 at *4-*5; & Road Traffic Treaty, art. 24 § 1, & Annex 8, 3 U.S.T. 3008 at *16 & *86.
5. Road Traffic Treaty, art. 30, 3 U.S.T. 3008 at *22.
6. *See* https://www.state.gov/s/l/treaty/tif/index.htm, in particular the Transportation treaties on page 556 of the "Treaties in Force 2016" PDF document. This web site notes that:
(1) the records of the *Organization of American States* serve as the official depositary for the Inter-American Treaty; *see* http://www.oas.org/en/sla/dil/treaties_agreements.asp; and
(2) the records of the *United Nations* serve as the official depositary for the Road Traffic Treaty; *see* https://treaties.un.org/pages/participationstatus.aspx.
Accordingly, the list of countries that are parties to the Inter-American Treaty are found online at http://www.oas.org/dil/treaties_C-11_Convention_on_the_Regulation_of_Inter-American_Auto-Motive_Traffic_sign.htm; and the list of countries that are parties to the Road Traffic Treaty are found online at https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20XI/XI-B-1.en.pdf (All websiteslast visited on Jan. 30, 2017).
7. Road Traffic Treaty, art. 24, 3 U.S.T. 3008 at *16-*18.
8. *Id.*, art. 1 § 2, 3 U.S.T. 3008 at *3.
9. *Id.*, art. 30, 3 U.S.T. 3008 at *22. The Road Traffic Treaty controls over the Inter-American Treaty for the 10 countries that joined both treaties: Argentina, Chile, Dominican Republic, Ecuador, Guatemala, Haiti, Paraguay, Peru, United States, and Venezuela.
10. *See* https://www.state.gov/s/l/treaty/tif/index.htm, & note 6 *supra*.
11. Inter-American Treaty, art. 6, 3 Bevans 865 at *4-*5. This treaty alternatively allows drivers to hold an "international driving license," which is valid for one year, if their home country does not require its citizens to hold a driver's license. *Id.* at arts. 6, 13, 3 Bevans 865 at *4-*5, *9-*10.
12. Please note that neither treaty discusses whether international driving privileges are contingent upon the person having entered the United States lawfully.
13. Tex. Transp. Code § 521.029(a) (West 2009).
14. *See e.g. Id. at* § 521.0305 ML

AUTOMOTIVE AND ROAD TRAFFIC TREATIES: PARTICIPATING COUNTRIES

Convention on the Regulation of Inter-American Automotive Traffic,
Oct. 29, 1946. TIAS 1567; 3 Bevans 865, 1943 U.S.T. LEXIS 185.

Participating Countries:

Brazil
Colombia
Costa Rica
El Salvador
Honduras
Mexico
Nicaragua
Panama
Uruguay

Source:
http://www.oas.org/dil/treaties_C-11_Convention_on_the_Regulation_of_Inter-American_Auto-Motive_Traffic_sign.htm
(last visited Jan. 30, 2017)

Convention on Road Traffic,
Mar. 26, 1952. 3 UST 3008; TIAS 2487; 1952 U.S.T. LEXIS 558.

Participating Countries:

Albania
Algeria
Argentina
Australia
Austria
Bangladesh
Barbados
Belgium
Benin
Botswana
Bulgaria
Burkina Faso
Cambodia
Canada
Central African Republic
Chile
Congo, Democratic Republic of the
Congo, Republic of the
Cuba
Cyprus
Czech Republic
Denmark
Dominican Republic
Ecuador
Egypt
Fiji
Finland
France
Georgia
Ghana
Greece
Guatemala
Haiti
Holy See
Hungary
Iceland
India
Ireland
Israel
Ivory Coast (Côte d'Ivoire)
Italy
Jamaica
Japan
Jordan
Kyrgyzstan
Laos (Lao People's Democratic Republic)
Lebanon
Lesotho
Luxembourg
Madagascar
Malawi
Malaysia
Mali
Malta
Monaco
Montenegro
Morocco
Namibia
Netherlands
New Zealand
Niger
Nigeria
Norway
Papua New Guinea
Paraguay
Peru
Philippines
Poland
Portugal
Romania
Russian Federation
Rwanda
San Marino
Senegal
Serbia
Sierra Leone
Singapore
Slovakia
South Africa
South Korea (Republic of Korea)
Spain
Sri Lanka
Sweden
Switzerland
Syrian Arab Republic
Thailand
Togo
Trinidad & Tobago
Tunisia
Turkey
Uganda
United Arab Emirates
United Kingdom
United States of America
Venezuela
Vietnam
Zimbabwe

Source:
https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20XI/XI-B-1.en.pdf
(last visited Jan. 30, 2017)