

Article: No License, No Service **Szabo, Zelnick and Erickson, P.C.**

As an HR professional, how many times have employees asked you for assistance in renewing a driver's license? Believe it or not, this question comes up often with foreign workers in the U.S. Although it is not a requirement that a driver's license be valid if provided in support of Form I-9 for employment eligibility verification, an expired license can result in the inability to drive and potentially the inability to work.

Most states require that applicants for driver's licenses establish both identity and legal presence. The list of acceptable documents varies by state. Check with your local motor vehicle department for a complete list of acceptable proof of identity and legal presence.

In some states, a driver's license for a foreign national will be issued only for the duration of that person's legal stay in the U.S. So what happens when the legal stay expires while a request for an extension is pending? We see this issue frequently with the increased processing times for extension petitions, even in cases where an extension is filed on the earliest possible date.

One option is to use the expedited Premium Processing service if this is available for the type of extension requested (including, but not limited to, H-1B, L-1, TN). This raises the issue of who should bear the cost of the expedited service (\$1000). If the license is not a requirement for job performance, this is a cost that the employer may request that the employee bear.

If the foreign national has a valid Advance Parole travel document, one option for that employee is to have her exit the U.S. and reenter to obtain a new I-94 arrival/departure card. The new I-94 card should reflect an expiration date of at least one year from the date of entry. If a valid I-94 card is acceptable proof of legal presence (and it is in most, if not all states), she will be eligible to renew her license for a one year period.

Having a valid driver's license is important for most everyone, not only for the purpose of mobility but to also establish identity. Navigating the rules for driver's license eligibility can be confusing. If you have questions about driver's licenses for foreign workers, please contact the immigration professionals at Szabo, Zelnick & Erickson, P.C. (info@szelaw.com).

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