

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

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MICHAEL P. KEARNS, in his official  
capacity as Clerk of the County of Erie,  
New York,

Civil Case No. 19-cv-902-EAW

Plaintiff

vs.

ANDREW M. CUOMO, in his official  
capacity as Governor of the State of New  
York, LETITIA A. JAMES, in her official  
capacity as Attorney General of the State  
of New York, and MARK J.F.  
SCHROEDER, in his official capacity as  
Commissioner of the New York State  
Department of Motor Vehicles,

Defendants

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***AMICI CURIAE* BRIEF OF THE STATES OF  
CONNECTICUT, CALIFORNIA,  
DELAWARE, HAWAII, ILLINOIS,  
MARYLAND, NEVADA AND  
WASHINGTON, AND THE DISTRICT OF  
COLUMBIA, IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS**

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## INTRODUCTION AND INTEREST OF *AMICI* STATES

Issuing personal driving credentials has always been a prerogative of the sovereign states – a valid and time-tested exercise of the core police power to promote public health and welfare by regulating road safety.<sup>1</sup> The Plaintiff in this case challenges New York's "Green Light Law," Chapter 37, 2019 N.Y. Laws, which aims to protect New York residents by ensuring that drivers are road-tested, insured, and licensed without regard to proof of immigration status.

The Green Light Law, as an exercise of the state's core traditional police power, was well within New York's authority to enact. It was also a good policy decision – an effective strategy to vindicate New York's explicit and unimpeachable objective of keeping its residents healthy and safe.

Amici – the States of Connecticut, California, Delaware, Hawaii, Illinois, Maryland, Nevada, and Washington, and the District of Columbia (the "Amici States") – are among the 16 states and territories that, along with New York, have allowed residents behind the wheel not based on the irrelevant criterion of federal immigration status but instead based on criteria that are directly related to capacity to drive and accountability for driving decisions: Passing a driving test, proving identity, paying a fee, and obtaining proper insurance.<sup>2</sup> Like New York's, the personal driving credentials issued by the Amici States do not have, do not purport to have, and in fact explicitly disclaim any effect on federal immigration status or indeed on any other federal

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<sup>1</sup> This brief is concerned exclusively with personal driving credentials, which are the subject of New York's Green Light Law, as opposed to commercial driver's licenses. The brief refers generically to driving "credentials" rather than "licenses," since states use a range of terms to describe personal driving privileges granted without regard to proof of immigration status. Utah, for instance, grants a "driving privilege card," while Nevada's term of art is "driver authorization card." See Utah Department of Public Safety, *Driving Privilege Card*, <https://dld.utah.gov/licensingid-cards/driving-privilege-card-dpc/> (last visited Aug. 22, 2019); Nevada Department of Motor Vehicles, *Driver Authorization Cards*, <https://dmvnev.com/dac.htm> (last visited Aug. 22, 2019).

<sup>2</sup> Amici States' laws on point are not identical. Each state has tailored its system to its own needs. Compare D.C. Code § 50-1401.05 (providing for a "limited purpose driver's license" that is valid for eight years) with Nev. Rev. Stat. § 483.291 (providing for a "driver authorization card" that expires after four years). But all share in common the issuance of personal driving credentials without regard to immigration status, and all exercised their police powers to further the health and safety of their residents.

right or privilege. Instead, they make the Amici States and their residents safer, healthier, and better off. The Amici States' experience shows that the New York legislature was correct in concluding that the Green Light Law stands to improve the safety of New York's highways and increase the efficiency of state law enforcement operations.

Amici States seek to be heard to protect their sovereignty in an area that – since the very beginning of automobile use in this country – has been reserved exclusively to local and state government. Since Massachusetts passed the nation's first driver's license law in 1903, all 50 sovereign states and the District of Columbia have successfully invoked their police powers to regulate their issuance of personal driving credentials without interference or claim of preemption by the federal government.<sup>3</sup> Indeed, until 1993 – for the first 90 years that driving credentials were issued in the United States – no state enacted a law that explicitly conditioned state driving privileges on proof of legal immigration status. Plaintiff's unfounded and incorrect legal theories, if upheld, would injure Amici States by opening the door to an unprecedented federal interference with their traditional prerogatives.

The federal intrusion into state sovereignty that Plaintiff seeks is not merely a theoretical injury: It will have far-reaching and negative consequences for the safety and health of Amici's residents. The Amici States have exercised their sovereign police powers to make carefully-considered and evidence-based policy decisions that measurably enhance the safety of their roadways. They have a deep-seated interest in vindicating their prerogative to enact and maintain their successful policies against Plaintiff's meritless challenge, and so they respectfully submit this brief in support of Defendants' motion to dismiss.

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<sup>3</sup> See United States Department of Transportation, Federal Highway Administration, *Year of First State Driver License Law and First Driver Examination* (Apr. 1997), <https://www.fhwa.dot.gov/ohim/summary95/dl230.pdf> (listing years in which states first enacted driver's license laws). Amici were among the first jurisdictions in the country with driver's license laws, starting with Connecticut in 1907. *Id.*

## ARGUMENT

### I. ISSUING AND REGULATING PERSONAL DRIVING CREDENTIALS IS A TIME-TESTED AND VALID EXERCISE OF STATES' CONSTITUTIONALLY-PROTECTED POLICE POWER TO PROMOTE RESIDENTS' SAFETY AND HEALTH.

#### A. Federal Courts Afford States Wide Latitude to Regulate the Issuance of Personal Driving Credentials.

Sovereign states have the greatest latitude to act, and the federal government's authority to preempt state action is at its nadir, when states legislate under their police powers in areas of their traditional superintendence and control – including, most significantly, their prerogative to protect the health and safety of residents.

In our system of federalism, the plenary police power belongs to the states, not to the federal government. *United States v. Lopez*, 514 U.S. 549, 566 (1995) (the "Constitution . . . withhold[s] from Congress a plenary police power."). While Congress' sphere of legislative authority is constrained by Article I, § 8 of the Constitution, the Tenth Amendment protects each state's retained sovereignty and plenary power to act in its own appropriate "sphere of authority." *Printz v. United States*, 521 U.S. 898, 928 (1997) ("It is an essential attribute of the States' retained sovereignty that they remain independent and autonomous within their proper sphere of authority."). Among the most important powers that, by history and tradition, lie "properly within the scope of state superintendence," *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 134 (1963), is the power to provide for the "health and safety" of state residents. *Hillsborough Cnty., Florida v. Automated Med. Labs., Inc.*, 471 U.S. 707, 715 (1985) ("The second obstacle in appellee's path is the presumption that state or local regulation of matters related to health and safety is not invalidated under the Supremacy Clause."); *United States v. Morrison*, 529 U.S. 598, 618 (2000) (states have primary responsibility for ensuring their own

public safety); *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006) ("[T]he structure and limitations of federalism... allow the States great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons").

Because of the deference afforded to each state's traditional police powers within our federal system, courts are least inclined to find federal preemption of state action when Congress comes up against an exercise of an "historic" police power. Preemption analysis "start[s] with the assumption that the historic police powers of the States [are] not to be superseded... unless that [is] the clear and manifest purpose of Congress." *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947); *Pacific Gas & Electric Co. v. Energy Res. Conservation & Dev. Comm'n*, 461 U.S. 190, 206 (1983); *Arizona v. United States*, 567 U.S. 387 (2012). Congress does not preempt the state's historic police powers to protect health and safety *sub silentio*. Instead, when it comes to those traditional areas of state superintendence, federal deference to state prerogatives is presumed unless Congress speaks clearly and explicitly – and, of course, unless Congress is acting within its own limited sphere of authority. *See, e.g., Gonzales*, 546 U.S. at 274 (Congress must articulate more than "an obscure grant of authority to regulate areas traditionally supervised by the States' police power.").

Federal courts have consistently held that the issuance of personal driving credentials is among the core police powers that have been traditionally reserved as areas of state "superintendence" and authority, and where the federal government's power to intrude is at its nadir. In the absence of an explicit Congressional command rooted in an enumerated Constitutional power – here, no such command has been issued, and no such power exists – courts have rejected claims that federal laws preempt states' issuance of personal driving credentials. *See, e.g., United States v. Snyder*, 852 F.2d 471, 475 (9th Cir.1988) ("Drivers'

licenses are issued pursuant to the states' police powers, and the federal government has no constitutional authority to interfere with a state's exercise of its police power...."); *United States v. Thurman*, 316 Fed. Appx. 599, 602 (9th Cir. 2009) (describing issuance of licenses as a "core state police power," into which the federal government may not intrude without a "valid, specific grant of authority from Congress."); *Jorgensen v. Larsen*, 930 F.2d 922 at \*4 (10th Cir. 1991) (unpublished opinion) (crediting the Utah Supreme Court's opinion that the "legislature has the power and duty to promote the public health, safety, and general welfare of all citizens. In furtherance of that power and duty, conditions and regulations for the operation of motor vehicles on our public roads and highways are a proper subject for legislative action."); *Cnty. Refugee and Immigration Serv. v. Petit*, --- F.Supp.3d ----, 2019 WL 2422702 (S.D. Ohio 2019) (noting that issuance and regulation of licenses is well within the traditional police powers of the state).

**B. The States Have a Long Tradition of Credentialing Drivers Without Regard to Proof of Immigration Status, and Independent of Federal Interference or Claim of Preemption.**

In 1903, at the dawn of the age of the personal automobile, the states of Massachusetts and Missouri passed the nation's first legislation regulating the issuance of personal driving credentials to state residents. Not long afterwards, in 1910, Maryland enacted the first legislation requiring residents to pass examinations before receiving driving credentials. By 1959, all 50 states and the District of Columbia required residents to obtain personal driver's licenses or other driving credentials and to pass an examination before taking the wheel.<sup>4</sup>

Starting in 1903 and throughout ninety uninterrupted years of state-controlled examination and licensure regimes, it appears that no state conditioned the issuance of licenses –

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<sup>4</sup> United States Department of Transportation, Federal Highway Administration, *Year of First State Driver License Law and First Driver Examination* (Apr. 1997), <https://www.fhwa.dot.gov/ohim/summary95/dl230.pdf>

an exclusively state-regulated phenomenon, after all – on the logically-unrelated criterion of federal immigration status. That comparatively recent innovation did not come into contemplation until 1993, when California became the first state to explicitly bar undocumented immigrants from obtaining driver's licenses.<sup>5</sup> California's choice to link immigration status and driving privileges was just that, and not a response to a federal mandate.<sup>6</sup> (Notably, California subsequently exercised its prerogative to reverse that policy choice, passing legislation in 2013 that allowed undocumented immigrants to obtain driving privileges and that generated significant positive safety outcomes for the state, discussed further *infra*.<sup>7</sup>)

Other states followed California, but as recently as 2002 half of all states did not require applicants to produce documentation of lawful immigration status before obtaining permission to drive.<sup>8</sup> The move towards linking immigration status and driving privileges gained momentum after the terrorist attacks of September 11, 2001.<sup>9</sup> But even the events of 9/11 did not lead Congress to federalize the issuance of, or the determination of eligibility for, personal driving credentials. The REAL ID Act of 2005<sup>10</sup> created minimum federal standards for a new category of state driver's licenses and identification cards. But both the statute and its implementing regulations explicitly recognized the prerogative of states to continue granting personal driving

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<sup>5</sup> Ingrid Schroeder, *et. al.*, *Deciding Who Drives: State Choices Surrounding Unauthorized Immigrants and Driver's Licenses* at 4, The Pew Charitable Trusts (Aug. 2015), <https://tinyurl.com/y6pp736h>.

<sup>6</sup> See Kevin R. Johnson, *Los Olvidados: Images of the Immigrant, Political Power of Noncitizens, and Immigration Law and Enforcement*, 1993 B.Y.U. L. Rev. 1139, 1169 n. 111.

<sup>7</sup> Cal. Veh. Code. § 12801.9 (2013).

<sup>8</sup> American Association of Motor Vehicle Administrators, *Driver Licensing for Undocumented Immigrants in 2013: How States are Reacting and the Effects on the Motor Vehicle Community* (Aug. 27, 2013), <https://tinyurl.com/yxtv3nhz>.

<sup>9</sup> See generally Alexander L. Mounts, *A Safer Nation?: How Driver's License Restrictions Hurt Immigrants and Noncitizens, Not Terrorists*, 37 Ind. L. Rev. 247 (2003) (exploring the role of the 9/11 attacks in motivating states to limit access of immigrants to driving credentials). As Mounts observes, several of the 9/11 terrorists obtained state-issued driver's licenses – but none of the terrorists actually needed those licenses, since all of them had valid foreign passports that would have allowed them to board airplanes even without driver's licenses.

<sup>10</sup> Pub. L. No 109-13, 119 Stat. 231 (2005) (codified at 49 U.S.C. § 30301 n.).

privileges to residents regardless of immigration status.

Under the REAL ID Act, "a Federal agency may not accept, for any official purpose, a driver's license or identification card issued by a State to any person unless the State is meeting the requirements of [the Act.]"<sup>11</sup> Undocumented immigrants – among other categories of immigrants – are among those barred from receiving REAL ID-compliant identifications. The REAL ID Act means that immigrants without proof of legal status who receive state identification cards or driving credentials cannot use those credentials for federal purposes like boarding airplanes. But the Act explicitly allows states to continue to issue, alongside REAL ID-compliant forms of identification, another category of non-compliant licenses or other credentials. Neither the REAL ID Act nor any other federal law or regulation limits this class of noncompliant credentials to applicants who can prove lawful federal immigration status – so long, of course, as a noncompliant credential is not used for federal purposes, and so long as the credential "(A) clearly states on its face that it may not be accepted by any Federal agency for Federal identification or any other official purpose; and (B) uses a unique design or color indicator to alert Federal agency and other law enforcement personnel that it may not be accepted for any such purpose."<sup>12</sup> The REAL ID Act's implementing regulation uses similar language, recognizing that states remain empowered to issue noncompliant "driver's licenses and identification cards that are not acceptable by Federal agencies for official purposes," provided that the credentials are appropriately marked to mitigate the possibility of confusion or fraud.<sup>13</sup>

Even at the high-water mark of the federal government's involvement with the issuance of identifying credentials and driver's licenses, then, it remained crystal clear that states are free

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<sup>11</sup> *Id.* at § 202(a)(1).

<sup>12</sup> *Id.* at § 202 (d)(11).

<sup>13</sup> 6 C.F.R. § 37.71 (2008).

to set the terms under which they will extend state driving privileges. States that opted post-9/11 to condition driving privileges on federal immigration status were implementing their own policy choices, not bending to a nonexistent federal mandate.

Nor was there ever a time, post-9/11 or otherwise, when states uniformly conditioned driving privileges on federal immigration status. In 1993, the same year that California became the first state to explicitly bar undocumented residents from receiving driver's licenses, Washington State enacted legislation explicitly allowing the issuance of driving credentials without proof of legal immigration status.<sup>14</sup> And in the aftermath of 9/11, as the REAL ID Act was being debated and passed in Congress, New Mexico and Utah – in 2003 and 2005, respectively – passed legislation providing for issuance of driving credentials to residents who cannot prove legal immigration status.<sup>15</sup> By early 2019, when New York was considering passage of its Green Light Law, 14 other states and territories had already made a policy decision, under the authority of their police power, to protect the health and safety of their residents by granting driving credentials regardless of proof of immigration status: California (2013), Colorado (2014), Connecticut (2015), Delaware (2015), District of Columbia (2013), Hawaii (2015), Illinois (2013), Maryland (2013), New Mexico (2003), Nevada (2013), Puerto Rico (2013), Utah (2005), Vermont (2013), and Washington (1993).<sup>16</sup>

When New York passed its Green Light Law in 2019, it became the 15<sup>th</sup> such state or territory. Oregon became the 16<sup>th</sup> on August 9, 2019.<sup>17</sup> Together, those 16 jurisdictions are home to more than 114 million people. More than a third of the U.S. population can now benefit from

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<sup>14</sup> 1993 Wash. Laws Ch. 452, § 3.

<sup>15</sup> 2005 Utah Laws Ch. 20, § 2; 2003 N.M. Laws Ch. 31, § 1.

<sup>16</sup> National Immigration Law Center, *State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status* (Aug. 2019), <https://www.nilc.org/wp-content/uploads/2015/11/drivers-license-access-table.pdf>.

<sup>17</sup> 2019 Oregon Laws Ch. 701.

sharing the road with drivers who are qualified to drive based on their demonstrated skill, knowledge, and accountability – not based on where they were born. All of those 114 million residents, and all of those jurisdictions, depend on laws like New York's – laws enacted pursuant to police powers that our Constitution has protected since our nation's founding, and which states have been using uninterruptedly since 1903 to issue personal driving credentials without federal interference or threat of preemption.

## **II. THE AMICI STATES ENHANCE RESIDENTS' HEALTH, SAFETY, AND WELLBEING BY ISSUING AND REGULATING PERSONAL DRIVING CREDENTIALS WITHOUT REGARD TO PROOF OF IMMIGRATION STATUS.**

To protect the public, drivers must be knowledgeable and skilled. They must know the rules of the road, and be able to comply. That is why all states and the District of Columbia require drivers to pass an examination.<sup>18</sup> To ensure that residents bear their fair share of the costs of their own actions on the road, drivers must be insured. That is why 49 states, and the District of Columbia, require drivers to have liability insurance.<sup>19</sup> And to ensure accountability, drivers must carry accurate identification. That is why every state, and the District of Columbia, requires that drivers have licenses or other credentials with their name, photograph, and other identifying information.<sup>20</sup>

These are relevant and important qualifications for drivers. But proof of legal federal immigration status is neither necessary nor sufficient to ensure safety, fairness, and accountability. It is, in fact, irrelevant to those legitimate state aims. Many states, of course, have chosen to condition driving privileges on proof of legal immigration status. As Amici have

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<sup>18</sup> United States Department of Transportation, *supra* note 3.

<sup>19</sup> Insurance Information Institute, *Compulsory Auto/Uninsured Motorists* (Aug. 2015), <http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists>. New Hampshire does not require liability insurance, but does require drivers to demonstrate that they have resources to pay in the event of an at-fault accident. *Id.*

<sup>20</sup> United States Department of Transportation, *supra* note 3.

shown, that choice it is not compelled by federal law. As Amici will show next, it is not compelled by logic or evidence, either. Instead, data indicate that states and their residents are safer, healthier, and better-off when they grant driving privileges to residents – regardless of their immigration status – who can prove their identity, pass a test, and purchase insurance.<sup>21</sup>

**A. Training and Credentialing Drivers Without Regard to Proof of Immigration Status Reduces Accidents.**

In every state and in the District of Columbia, would-be drivers must pass state-sanctioned knowledge and road tests before obtaining driving credentials. Those credentialed drivers are safer drivers: As against drivers who never obtain official credentials, they are better informed about the rules of the road and better able to comply. In fact, unlicensed or uncredentialed drivers – who may have never learned the rules of the road – are even less safe behind the wheel than drivers whose licenses have been revoked or suspended for proof of violating traffic laws. Analyzing 23 years of data, a researcher at the California Department of Motor Vehicles concluded that "unlicensed drivers tend to be more hazardous than S/R [suspended/revoked] drivers."<sup>22</sup>

The data showing that licensed drivers are safer drivers strengthens the significance of a highly-suggestive correlation, uncovered by researchers at Virginia's Commonwealth Institute, between decreases in traffic fatalities and the granting of licenses or other credentials to drivers who know the rules of the road and pass driving tests, regardless of immigration status. As noted earlier, three states – Washington (1993), New Mexico (2003), and Utah (2005) – led the nation in passing legislation to credential drivers regardless of immigration status. And, in the twenty

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<sup>21</sup> States also have realized a financial benefit from passing these laws. For instance: According to data provided to counsel by the Connecticut Department of Motor Vehicles, Connecticut's Drive Only license program brought in approximately \$13,810,462 for the state treasury between January 1, 2015 and August 10, 2019.

<sup>22</sup> Sukhvir S. Brar, *Estimation of Fatal Crash Rates for Suspended/Revoked and Unlicensed Drivers in California* at vi, California Department of Motor Vehicles (Sept. 2012), <https://tinyurl.com/y652fscl>.

years after Washington passed its law, those three states each experienced a drop of greater than 30% in traffic fatalities, as against a national average decline of 20%. Put differently: After insisting that drivers know how to drive, regardless of where they were born, each of those three states cut traffic deaths by at least 50% more than the national average.<sup>23</sup>

**B. Training and Credentialing Drivers Without Regard to Proof of Immigration Status Reduces Hit-and-Run Driving, with Positive Impacts on Safety, Accountability, and Fair Cost Allocation.**

For Amici States, reducing hit-and-run behavior is an important way of using the police power to protect the health, safety, and wellbeing of residents. "Hit and run behaviors," as Stanford University researchers have observed, "often delay emergency assistance, increase insurance premiums, and leave victims with significant out of pocket expenses... Moreover, serious injuries and fatalities become more likely when a driver leaves the scene of an accident without helping victims or reporting the incident to the authorities."<sup>24</sup> Each of the Amici States has criminalized hit-and-run behavior,<sup>25</sup> because disincentivizing drivers from leaving the scene of a car accident without providing identification or rendering assistance furthers Amici's important objectives of ensuring that injured residents receive prompt aid; promoting accountability for bad driving behavior; and allocating costs fairly among drivers, which in turn holds insurance costs in check. And, when drivers remain at the scene of an accident to engage with law enforcement, police officers can document and respond to driving offenses far more effectively and efficiently.

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<sup>23</sup> Laura Goren and Michael Cassidy, *Hands on the Wheel*, The Commonwealth Institute (Jan. 17, 2018), <https://www.thecommonwealthinstitute.org/2018/01/17/hands-on-the-wheel-2/>.

<sup>24</sup> Hans Lueders *et. al.*, *Providing Driver's Licenses to Unauthorized Immigrants in California Improves Traffic Safety* at 1, Proceedings of the National Academy of Sciences (Apr. 2017), <https://doi.org/10.1073/pnas.1618991114>.

<sup>25</sup> See, e.g., Conn. Gen. Stat. § 14-224 (defining the crime of "evasion of responsibility in operation of motor vehicles," with penalties ranging up to 20 years in prison for accidents resulting in death); D.C. Code § 50-2201.05 ("Fleeing from scene of accident").

Untrained and unlicensed drivers are disproportionately responsible for hit-and-run behavior. A study by the American Automobile Association's Foundation for Traffic Safety found that "unlicensed drivers were 9.5 times as likely as validly licensed drivers to have left the scene" of an accident.<sup>26</sup> States can and do reduce hit-and-runs by ensuring that drivers are properly trained and licensed.

Connecticut's experience shows that states can reduce hit-and-run accidents by allocating driving privileges without regard to federal immigration status. Connecticut's Public Act No. 13-89, which authorized the state to grant drive-only licenses – marked clearly as such, and unusable for federal purposes<sup>27</sup> – without regard to applicants' immigration status, took effect on January 1, 2015. By August 10, 2019, the state had issued 54,045 drive-only licenses.<sup>28</sup> And during the intervening years, hit-and-run accidents statewide fell by 9%. Analysis by the University of Connecticut's Transportation Security Research Center showed that hit-and-runs fell most steeply in the towns and cities that issued drive-only licenses at the highest rates:

Across 10 Connecticut cities with the highest concentration of drive-only licenses issued to undocumented immigrants, there were 1,200 fewer hit-and-run crashes since 2016... That's a 15 percent decrease over three years. The state didn't compile hit-and-run crash data before 2015. By comparison, in 10 Connecticut communities with the lowest rates of drive-only licenses, hit-and-run crashes edged up about 5 percent in the same time period. "The numbers are coming to bear that it is making the roads safer, and any decrease is a very good thing," said Charles Grasso, a former police sergeant and a car-crash expert at the University of Connecticut's Transportation Safety Research Center.<sup>29</sup>

The Connecticut data is amplified by California's experience, illustrated by a study

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<sup>26</sup> American Automobile Association Foundation for Traffic Safety, *Unlicensed to Kill* at 6 (Nov. 2011), <https://www.adtsea.org/webfiles/fnitools/documents/aaa-unlicensed-to-kill.pdf>.

<sup>27</sup> Connecticut Department of Motor Vehicles, *Drive Only License Overview* (May 6, 2019), <https://www.ct.gov/dmv/cwp/view.asp?a=805&q=547212>.

<sup>28</sup> Data provided by the Connecticut Department of Motor Vehicles; on file with counsel.

<sup>29</sup> Christopher Burrell, *Licenses for Undocumented Immigrants Seem to Show Benefits in Connecticut*, New England Center for Investigative Reporting (Apr. 17, 2019), <https://tinyurl.com/y2rwu8ht>.

published in the Proceedings of the National Academy of Sciences. As in Connecticut, California's law granting driving credentials without regard to proof of immigration status passed in 2013 and took effect in 2015. That year, researchers looking at California's statewide accident data reported that the new law resulted in "an annual decline in hit and run accidents by about 4,000" – or a decline of 7-10% against 2014 numbers. The researchers also found that the law resulted in the transfer of \$17 million in hit-and-run costs to at-fault drivers that would otherwise have been borne by accident victims.<sup>30</sup>

**C. Training and Credentialing Drivers Without Regard to Proof of Immigration Status Reduces Driving Infractions and Increases Law Enforcement Efficiency.**

States have a strong interest in ensuring that state and local law enforcement officers are working efficiently – deterring and responding to crime and assisting residents, not filling out unnecessary paperwork or performing other burdensome administrative tasks. When more drivers are properly credentialed, law enforcement officers can dedicate less time to issuing citations for uncredentialed driving and tracking down drivers' real identities. As one Connecticut law enforcement officer put it, describing the difference between policing before and after passage of Connecticut's law: "There'd be times we pulled somebody over and they don't have any ID and it takes an officer off the road for one, two, three hours. It typically ruins someone's day going to jail, getting fingerprinted, getting photographed, waiting for fingerprints to come back. So, having these drive-only licenses can be very beneficial to both the police and the community."<sup>31</sup>

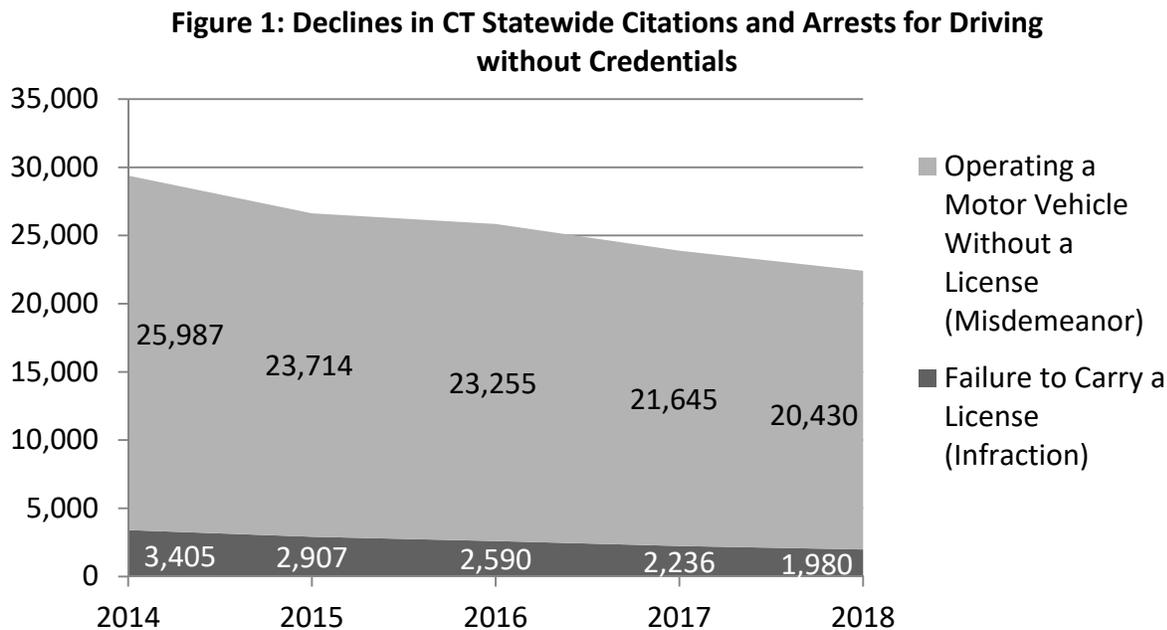
Here, Connecticut's experience is again instructive. Implementation of Connecticut's drive-only license law beginning in 2015 has been accompanied by a statewide decrease of

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<sup>30</sup> Lueders, *supra* note 24.

<sup>31</sup> Burrell, *supra* note 29.

23.7% in arrests and citations for driving without a license, as Figure 1 shows:<sup>32</sup>



In real numbers, that drop of nearly a quarter in arrests and citations meant that law enforcement officers saved time issuing citations and making arrests in almost 7,000 instances, with accompanying increases in their availability to respond to emergencies and stop crime.

**D. Training and Credentialing Drivers Without Regard to Proof of Immigration Status Increases Insurance Coverage Rates.**

Finally: 49 states and the District of Columbia have determined that they have an important interest in ensuring that all drivers on their roads are insured. Uninsured drivers are less safe than drivers with insurance, and their presence on the road increases insurance rates for all other drivers. When drivers without insurance are involved in accidents, costs can be unfairly allocated to other drivers who are not at fault.<sup>33</sup> Granting driving credentials without regard to immigration status is an effective means of increasing a state's percentage of insured drivers.

California's experience once again provides a compelling data-point. Recall that

<sup>32</sup> Data provided by the Connecticut Judicial Branch; on file with counsel.

<sup>33</sup> See Insurance Journal, *In 5 States, 20% or More of Drivers Have No Insurance; Countrywide Average Increases* (Mar. 15, 2018), <https://www.insurancejournal.com/news/national/2018/03/15/483414.htm>.

California's AB 60, allowing residents to obtain licenses without proof of immigration status, took effect in 2015. The next year, California's Department of Insurance determined that the law increased rates of insured drivers: "In 2015, the first year since the passage of AB 60," the Department announced, "the number of insured vehicles increased by 200,000 more vehicles than would have been expected. In the previous three years, the percentage of insured vehicles increased at the same rate as the number of registered vehicles, but the department's analysis shows an unexpected increase in the number of insured vehicles in 2015."<sup>34</sup>

California's analysis lends weight to observational data from other states. According to New Mexico's Motor Vehicle Division, the 2003 passage of HB 173, the state's law authorizing issuance of driving credentials to undocumented residents, was accompanied by a sharp decline in rates of uninsured drivers "from 33 percent in December 2002 to less than 10 percent in December 2008."<sup>35</sup> Utah also saw a steep decline in rates of uninsured drivers, from 28% to 8%, in the years following its 2005 law allowing the state to issue driving credentials without proof of immigration status.<sup>36</sup>

Predictably, insurance rates for all drivers tend to fall when more drivers are insured. States want to drive down those insurance rates for the good of consumers. And research shows that states that grant driving privileges to road-tested and insured residents without proof of immigration status benefit from lowered insurance premiums.<sup>37</sup>

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<sup>34</sup> California Department of Insurance, *AB 60 Driver Licenses Believed to Cause 2015 Bump in Insured Vehicles* (Nov. 17, 2016), <https://pifpac.org/ab-60-driver-licenses-believed-to-cause-2015-bump-in-insured-vehicles/>.

<sup>35</sup> Steven J. Escobar, *Allowing Undocumented Immigrants to Obtain Driver's Licenses in New Mexico: Revising, Not Abandoning, the System*, 43 Wash. U. J. L. & Pol'y 285, 288 (2014).

<sup>36</sup> Colorado Fiscal Institute, *The Impact of Allowing All Immigrants Access to Driver's Licenses* (Feb. 2017), <https://tinyurl.com/y5vjag35>.

<sup>37</sup> Mauricio Cáceres and Kenneth P. Jameson, *The Effects on Insurance Costs of Restricting Undocumented Immigrants' Access to Driver Licenses*, 81 Southern Economic Journal, No. 4 (Apr. 2015), <http://onlinelibrary.wiley.com/wo11/doi/10.1002/soej.12022/abstract>.

## CONCLUSION

New York's power to pass the Green Light Law is written into our Constitution and deeply entrenched in the structure of our federalism. By passing the law, New York – like each of the Amici States – has done the right thing to enhance road safety and public health for all of its residents. For these reasons, the Amici States support Defendants' motion to dismiss.

Respectfully submitted,

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