

PLEASE OPPOSE SB63 (Ketron)/ HB262 (Carr)

**Original bill prohibits all translations of the written driver's exam
Amended bill prohibits any translations not tied to economic development**

Not a Safety Issue

- **Almost all states offer translated driving tests.** 44 states offer translated driver's tests. Alabama offers the test in 12 languages and Georgia offers it in 11 languages. Why is Tennessee different? Will licenses from Georgia and Alabama no longer be valid in Tennessee?
- According to TN Department of Safety testimony (House Subcommittee on Public Safety and Rural Roads, 4/11/06), **there are NO statistics indicating that TN drivers who take translated tests are less safe** than those who take the test in English. No matter what language the test is in, applicants must demonstrate knowledge of English signs, and pass the hands-on portion in English. Should car rental companies be prohibited from accepting foreign driver's licenses without administering an English test?
- **The safety argument is completely negated by the Senate and House-approved amendment**, which allows translations for foreign visitors in Tennessee who are "investing, overseeing investment, or providing needed services to companies or businesses." If it's unsafe for a limited English-proficient individual to drive, why does it matter if they are rich?

Targets *Legal* Immigrants and Refugees

- **This English-only bill has nothing to do with illegal immigration.** It targets and discriminates against all foreign-born people in TN. Since undocumented immigrants cannot currently get any driving safety document, this bill impacts LEGAL immigrants and refugees.
- **The amended bill discriminates against U.S. citizens.** The amended bill allows limited translations for "For persons whose presence in the United States has been approved and authorized by the United States department of homeland security for a specific purpose...and for a specified period of authorized stay." A Spanish-speaker from Puerto Rico is a U.S. Citizen by birth, and does not have their presence approved by homeland security for a specific purpose or a specific time period. If this U.S. Citizen from Puerto Rico is not yet fluent in English, will they no longer be able to drive in Tennessee?
- **The amended bill discriminates against immigrants who aren't wealthy investors.** Translations will still be allowed if an immigrant or foreign national is considered worthy by "the department of economic and community development." Therefore, a German-speaker may be allowed to drive because he works at Volkswagen, but the Korean wife of a U.S. serviceman may be deemed unworthy, no longer able to drive her children to school.

Makes Learning English Harder

- Today's immigrants are learning English the same way our grandparents did—by getting out into the community and interacting with native speakers. This bill seeks to further isolate immigrants, making it far less likely that they will learn English quickly. **They won't even be able to drive to English classes.**

Violates Title VI of the Civil Rights Act, jeopardizing all federal funds received by the Tennessee Department of Safety

Title VI of the 1964 Civil Rights Act says "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 U.S.C. § 2000d.) This has been interpreted by the U.S. Department of Justice and the U.S. Department of Transportation to mean that all agencies that receive federal funding (including the Tennessee Department of Safety) are required to provide meaningful access to individuals who are limited English proficient (LEP). (*See* Presidential Executive Order 13166 "Denying Access to Services for Persons with Limited English Proficiency," August 11, 2000.)

Title VI requires information and services to be provided in languages other than English when significant numbers of beneficiaries are of limited English speaking ability. A recipient of federal financial assistance may not "provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program" on the basis of race, color or national origin. (49 C.F.R. 21.5(b)(1)(ii).)

Recipients of federal funds must provide meaningful language access to their programs, including the translation of vital documents. According to the U.S. Department of Transportation's "Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," vital documents include "written tests [that assess]...competency for a particular license, job, or skill for which English competency is not required." "State and local entities with 'English-only' laws are certainly not required to accept federal funding—but if they do, they have to comply with Title VI and its implementing regulations..."

If the bill is enacted, the Tennessee Department of Safety risks losing all of its federal funding for any and all programs. The Civil Rights Restoration Act of 1987 (42 U.S.C. § 2000d-4a et seq.) mandates that when a recipient receives federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the federal assistance. If the matter cannot be resolved informally, the granting federal agency must secure compliance through (a) termination of federal assistance after the recipient has been given the opportunity for an administrative hearing, (b) referral to DOJ for injunctive relief or other enforcement proceedings, or (c) any other means authorized by law. According to the TN Attorney General (Opinion 05-125), requiring all driving tests to be in English "may be vulnerable to challenge on the grounds that it violates Title VI of the 1964 Act..."

The need for this bill is based on conjecture and false impressions, which won't hold up in court. USDOT Title VI guidance specifies, "Assertions of safety justifications would generally not be accepted unless accompanied by statistical and/or scientific casualty studies showing a positive correlation between limited English proficiency and crash/injury rates." (Fed. Reg.: Jan. 22, 2001, Vol. 66, No. 14, 6733-6747). Those exams are already in place in several languages, and the system is working well. The prima facie motivation for a change in policy is hostility towards immigrants or non-English speakers. That is not a defensible reason pass new legislation, and likely constitutes intentional discrimination under the law. It may thus subject Tennessee to costly litigation to defend its discriminatory policy.

If you have any questions or comments about this fact sheet or legislation, please contact Stephen Fotopulos, TIRRC's Executive Director, at stephen@tnimmigrant.org.