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## License to wed draws gay couples to California

By **Mary Anne Ostrom**  
**Mercury News**

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Good weather, golden scenery and now gay marriage are drawing out-of-staters this summer to California.

Gay and lesbian couples during the next week and months are coming from New York, Texas and Kansas, to name just a few states where lovebirds of the same gender are denied a marriage license.

In most cases, the marriages will not be recognized or confer many, if any, new rights on these couples. Several of those making the trek want to make a political point back home.

"We're proud to be from Kansas. It was a state founded on freedom and equality. We're just trying to carry on the tradition," said Mike Silverman, a software engineer from Lawrence, Kan. Voters in his state in 2005 added a ban on such unions to the

\_\_\_\_\_ state constitution.

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Silverman and his partner, David Greenbaum, plan to wear University of Kansas T-shirts and bring a Kansas

flag to their 9 a.m. Tuesday ceremony at San Francisco City Hall. Silverman extended his stay from last week's Apple's Worldwide Developers Conference to be in San Francisco on June 17, and is blogging daily about the evolving wedding plans.

"Having a marriage certificate from an American state is very important. It's more than just a piece of paper. It was issued by a government in the United States," he said.

The California marriage license will go up on the wall of their home, next to the ketubah, a Jewish marriage agreement, from a ceremony the couple held nine years ago at a Nebraska synagogue.

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Participants "Dykes on Bikes" ride through downtown San Jose on Sunday. (Josie Lepe / Mercury News)

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Since 2004, Massachusetts has allowed same-sex couples who live in or plan to move to the commonwealth to wed, and it recognizes unions granted in countries where same-sex marriage is legal. But California is the only state offering same-sex marriage licenses to non-residents.

Some day, several out-of-state couples said, they hope their own states recognize their unions.

Patience can pay off. California gays and lesbians who earlier married in other countries where same-sex marriages are legal, such as Canada and Spain, will automatically have their marriages recognized by the state at 5:01 p.m. on Monday.

Legal experts suggest it will be several years before the issue reaches the U.S. Supreme Court, and there is a possibility of a ruling, pro or con, that would be applied nationally.

In the meantime, there is a patchwork of different rules state-by-state, almost all denying marriage to same-sex residents, even if the license was legally granted elsewhere.

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Last week, pro-gay-marriage legal groups issued an advisory to out-of-state couples, asking them to refrain from suing their own states for recognition after returning home with a California license. In several states, such lawsuits have produced new constitutional or legislative bans, and these proponent groups have a strategy to target more liberal states first.

So, in most cases for now, same-sex couples wed in California will gain no marriage rights, unless they move to California or Massachusetts. Only three states have no laws either explicitly condoning or prohibiting same-sex marriages: New Mexico, Rhode Island and New York.

Dozens, if not more, of New York state couples are heading west, after Gov. David Paterson last month ordered state agencies to recognize marriages of same-sex couples, if they were performed in California, Massachusetts and other countries where it is legal. He cited a February 2008 New York appellate court decision that ordered a New York community college to offer health benefits to the same-sex partner of an employee who wed in Canada.

The evolving guidelines in New York prompted Dan Whitman to lay out a picnic spread on a Hudson River pier one recent evening to propose to his partner of eight years. At sunset, looking west from a New York City bench "at scenic New Jersey," Whitman said with a laugh, he asked his partner, "Will you marry me in California?"

He said yes.

Contact Mary Anne Ostrom at [mostrom@mercurynews.com](mailto:mostrom@mercurynews.com) or (415) 477-3794.

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