

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 151

AN ACT

To repeal sections 302.065, 302.183, 302.188, and 302.189, RSMo, and to enact in lieu thereof three new sections relating to forms of identification, with penalty provisions and an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 302.065, 302.183, 302.188, and 302.189,
2 RSMo, are repealed and three new sections enacted in lieu
3 thereof, to be known as sections 302.170, 302.188, and 1, to read
4 as follows:

5 302.170. 1. As used in this section the following terms
6 shall mean:

7 (1) "Biometric data", shall include, but not be limited to,
8 the following:

9 (a) Facial feature pattern characteristics;

10 (b) Voice data used for comparing live speech with a
11 previously created speech model of a person's voice;

12 (c) Iris recognition data containing color or texture
13 patterns or codes;

14 (d) Retinal scans, reading through the pupil to measure
15 blood vessels lining the retina;

16 (e) Fingerprint, palm prints, hand geometry, measure of any

1 and all characteristics of biometric information, including shape
2 and length of fingertips, or recording ridge pattern or fingertip
3 characteristics;

4 (f) Eye spacing;

5 (g) Characteristic gait or walk;

6 (h) DNA;

7 (i) Keystroke dynamic, measuring pressure applied to key
8 pads or other digital receiving devices;

9 (2) "Commercial purposes", shall not include data used or
10 compiled solely to be used for, or obtained or compiled solely
11 for purposes expressly allowed under Missouri law or the federal
12 Drivers Privacy Protection Act;

13 (3) "Source documents", original or certified copies, where
14 applicable, of documents presented by an applicant as required
15 under 6 CFR Part 37 to the department of revenue to apply for a
16 driver's license or nondriver's license. "Source documents"
17 shall also include any documents required for the issuance of
18 driver's licenses or nondriver's licenses by the department of
19 revenue under the provisions of this chapter or accompanying
20 regulations.

21 2. Except as provided in subsection 3 of this section and
22 as required to carry out the provisions of subsection 4 of this
23 section, the department of revenue shall not retain copies, in
24 any format, of source documents presented by individuals applying
25 for or holding driver's licenses or nondriver's licenses or use
26 technology to capture digital images of source documents so that
27 the images are capable of being retained in electronic storage in
28 a transferable format.

1 3. The provisions of this section shall not apply to:

2 (1) Original application forms, which may be retained but
3 not scanned except as provided in this section;

4 (2) Test score documents issued by state highway patrol
5 driver examiners;

6 (3) Documents demonstrating lawful presence of any
7 applicant who is not a citizen of the United States, including
8 documents demonstrating duration of the person's lawful presence
9 in the United States;

10 (4) Any document required to be retained under federal
11 motor carrier regulations in Title 49, Code of Federal
12 Regulations, including but not limited to documents required by
13 federal law for the issuance of a commercial driver's license and
14 a commercial driver instruction permit; and

15 (5) Any other document at the request of and for the
16 convenience of the applicant where the applicant requests the
17 department of revenue review alternative documents as proof
18 required for issuance of a driver's license, nondriver's license,
19 or instruction permit.

20 4. (1) To the extent not prohibited under subsection 14 of
21 this section, the department of revenue shall amend procedures
22 for applying for a driver's license or identification card in
23 order to comply with the goals or standards of the federal REAL
24 ID Act of 2005, any rules or regulations promulgated under the
25 authority granted in such Act, or any requirements adopted by the
26 American Association of Motor Vehicle Administrators for
27 furtherance of the Act, unless such action conflicts with
28 Missouri law.

1 (2) The department of revenue shall issue driver's licenses
2 or identification cards that are compliant with the federal REAL
3 ID Act of 2005, as amended, to all applicants for driver's
4 licenses or identification cards unless an applicant requests a
5 driver's license or identification card that is not REAL ID
6 compliant. Except as provided in subsection 3 of this section
7 and as required to carry out the provisions of this subsection,
8 the department of revenue shall not retain the source documents
9 of individuals applying for driver's licenses or identification
10 cards not compliant with REAL ID. Upon initial application for a
11 driver's license or identification card, the department shall
12 inform applicants of the option of being issued a REAL ID
13 compliant driver's license or identification card or a driver's
14 license or identification card that is not compliant with REAL
15 ID. The department shall inform all applicants:

16 (a) With regard to the REAL ID compliant driver's license
17 or identification card:

18 a. Such card is valid for official state purposes and for
19 official federal purposes as outlined in the federal REAL ID Act
20 of 2005, as amended, such as domestic air travel and seeking
21 access to military bases and most federal facilities;

22 b. Electronic copies of source documents will be retained
23 by the department and destroyed after the minimum time required
24 for retention by the federal REAL ID Act of 2005, as amended;

25 c. The facial image capture will only be retained by the
26 department if the application is finished and submitted to the
27 department; and

28 d. Any other information the department deems necessary to

1 inform the applicant about the REAL ID compliant driver's license
2 or identification card under the federal REAL ID Act;

3 (b) With regard to a driver's license or identification
4 card that is not compliant with the federal REAL ID Act:

5 a. Such card is valid for official state purposes, but it
6 is not valid for official federal purposes as outlined in the
7 federal REAL ID Act of 2005, as amended, such as domestic air
8 travel and seeking access to military bases and most federal
9 facilities;

10 b. Source documents will be verified but no copies of such
11 documents will be retained by the department unless permitted
12 under subsection 3 of this section, except as necessary to
13 process a request by a license or card holder or applicant;

14 c. Any other information the department deems necessary to
15 inform the applicant about the driver's license or identification
16 card.

17 5. Once the department of revenue is notified by the
18 federal Department of Homeland Security that the department of
19 revenue is able to issue driver's licenses or identification
20 cards that comply with the federal REAL ID Act of 2005, as
21 amended, it shall give notice of such ability to the speaker of
22 the house of representatives, the president pro tempore of the
23 senate, and the revisor of statutes.

24 6. The department of revenue shall not use, collect,
25 obtain, share, or retain biometric data nor shall the department
26 use biometric technology to produce a driver's license or
27 nondriver's license or to uniquely identify licensees or license
28 applicants. This subsection shall not apply to digital images

1 nor licensee signatures required for the issuance of driver's
2 licenses and nondriver's licenses or to biometric data collected
3 from employees of the department of revenue, employees of the
4 office of administration who provide information technology
5 support to the department of revenue, contracted license offices,
6 and contracted manufacturers engaged in the production,
7 processing, or manufacture of driver's licenses or identification
8 cards in positions which require a background check in order to
9 be compliant with the federal REAL ID Act or any rules or
10 regulations promulgated under the authority of such Act. Except
11 as otherwise provided by law, applicants' source documents and
12 social security numbers shall not be stored in any database
13 accessible by any other state or the federal government. Such
14 database shall contain only the data fields included on driver's
15 licenses and nondriver identification cards compliant with the
16 federal REAL ID Act, and the driving records of the individuals
17 holding such driver's licenses and nondriver identification
18 cards.

19 7. Notwithstanding any provision of this chapter that
20 requires an applicant to provide reasonable proof of lawful
21 presence for issuance or renewal of a noncommercial driver's
22 license, noncommercial instruction permit, or a nondriver's
23 license, an applicant shall not have his or her privacy rights
24 violated in order to obtain or renew a Missouri noncommercial
25 driver's license, noncommercial instruction permit, or a
26 nondriver's license.

27 8. No citizen of this state shall have his or her privacy
28 compromised by the state or agents of the state. The state shall

1 within reason protect the sovereignty of the citizens the state
2 is entrusted to protect. Any data derived from a person's
3 application shall not be sold for commercial purposes to any
4 other organization or any other state without the express
5 permission of the applicant without a court order; except such
6 information may be shared with a law enforcement agency, judge,
7 prosecuting attorney, or officer of the court, or with another
8 state for the limited purposes set out in section 302.600, or for
9 the purposes set forth in section 32.091, or for conducting
10 driver history checks in compliance with the Motor Carrier Safety
11 Improvement Act, 49 U.S.C. Section 31309. The state of Missouri
12 shall protect the privacy of its citizens when handling any
13 written, digital, or electronic data, and shall not participate
14 in any standardized identification system using driver's and
15 nondriver's license records except as provided in this section.

16 9. Other than to process a request by a license or card
17 holder or applicant, no person shall access, distribute, or allow
18 access to or distribution of any written, digital, or electronic
19 data collected or retained under this section without the express
20 permission of the applicant or a court order, except that such
21 information may be shared with a law enforcement agency, judge,
22 prosecuting attorney, or officer of the court, or with another
23 state for the limited purposes set out in section 302.600 or for
24 conducting driver history checks in compliance with the Motor
25 Carrier Safety Improvement Act, 49 U.S.C. 31309. A first
26 violation of this subsection shall be a class A misdemeanor. A
27 second violation of this subsection shall be a class E felony. A
28 third or subsequent violation of this subsection shall be a class

1 D felony.

2 10. Any person harmed or damaged by any violation of this
3 section may bring a civil action for damages, including
4 noneconomic and punitive damages, as well as injunctive relief,
5 in the circuit court where that person resided at the time of the
6 violation or in the circuit court of Cole County to recover such
7 damages from the department of revenue and any persons
8 participating in such violation. Sovereign immunity shall not be
9 available as a defense for the department of revenue in such an
10 action. In the event the plaintiff prevails on any count of his
11 or her claim, the plaintiff shall be entitled to recover
12 reasonable attorney fees from the defendants.

13 11. The department of revenue may promulgate rules
14 necessary to implement the provisions of this section. Any rule
15 or portion of a rule, as that term is defined in section 536.010
16 that is created under the authority delegated in this section
17 shall become effective only if it complies with and is subject to
18 all of the provisions of chapter 536, and, if applicable, section
19 536.028. This section and chapter 536 are nonseverable and if
20 any of the powers vested with the general assembly pursuant to
21 chapter 536, to review, to delay the effective date, or to
22 disapprove and annul a rule are subsequently held
23 unconstitutional, then the grant of rulemaking authority and any
24 rule proposed or adopted after August 28, 2017, shall be invalid
25 and void.

26 12. Biometric data, digital images, source documents, and
27 licensee signatures, or any copies of the same, required to be
28 collected or retained to comply with the requirements of the

1 federal REAL ID Act of 2005 shall be retained for no longer than
2 the minimum duration required to maintain compliance, and
3 immediately thereafter shall be securely destroyed so as to make
4 them irretrievable.

5 13. No agency, department, or official of this state or of
6 any political subdivision thereof shall use, collect, obtain,
7 share, or retain radio frequency identification data from a REAL
8 ID compliant driver's license or identification card issued by a
9 state, nor use the same to uniquely identify any individual.

10 14. Notwithstanding any provision of law to the contrary,
11 the department of revenue shall not amend procedures for applying
12 for a driver's license or identification card, nor promulgate any
13 rule or regulation, for purposes of complying with modifications
14 made to the federal REAL ID Act of 2005 after August 28, 2017,
15 imposing additional requirements on applications, document
16 retention, or issuance of compliant licenses or cards, including
17 any rules or regulations promulgated under the authority granted
18 under the federal REAL ID Act of 2005, as amended, or any
19 requirements adopted by the American Association of Motor Vehicle
20 Administrators for furtherance thereof.

21 15. If the federal REAL ID Act of 2005 is modified or
22 repealed such that driver's licenses and identification cards
23 issued by this state that are not compliant with the federal REAL
24 ID Act of 2005 are once again sufficient for federal
25 identification purposes, the department shall not issue a
26 driver's license or identification card that complies with the
27 federal REAL ID Act of 2005 and shall securely destroy, within
28 thirty days, any source documents retained by the department for

1 the purpose of compliance with such act.

2 16. The provisions of this section shall expire five years
3 after the effective date of this section.

4 302.188. 1. A person may apply to the department of
5 revenue to obtain a veteran designation on a driver's license or
6 identification card issued under this chapter by providing:

7 (1) A United States Department of Defense discharge
8 document, otherwise known as a DD Form 214, that shows a
9 discharge status of "honorable" or "general under honorable
10 conditions" that establishes the person's service in the Armed
11 Forces of the United States; or

12 (2) A United States Uniformed Services Identification Card,
13 otherwise known as a DD Form 2, that includes a discharge status
14 of "retired" or "reserve retired" establishing the person's
15 service in the Armed Forces of the United States; [and] or

16 (3) A United States Department of Veterans Affairs photo
17 identification card; or

18 (4) A discharge document WD AGO 53, WD AGO 55, WD AGO 53-
19 55, NAVPERS 553, NAVMC 78 PD, NAVCG 553, or DD 215 form that
20 shows a discharge status of "honorable" or "general under
21 honorable conditions"; and

22 (5) Payment of the fee for the driver's license or
23 identification card authorized under this chapter.

24 2. If the person is seeking a duplicate driver's license
25 with the veteran designation and his or her driver's license has
26 not expired, the fee shall be as provided under section 302.185.

27 3. The department of revenue may determine the appropriate
28 placement of the veteran designation on the driver's licenses and

1 identification cards authorized under this section and may
2 promulgate the necessary rules for administration of this
3 section.

4 4. Any rule or portion of a rule, as that term is defined
5 in section 536.010, that is created under the authority delegated
6 in this section shall become effective only if it complies with
7 and is subject to all of the provisions of chapter 536 and if
8 applicable, section 536.028. This section and chapter 536 are
9 nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536 to review, to delay the
11 effective date, or to disapprove and annul a rule are
12 subsequently held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28, 2012,
14 shall be invalid and void.

15 Section 1. In the event the state is required to provide a
16 citizen with photo identification acceptable for election
17 purposes, such identification shall be a nondriver identification
18 card that is not compliant with the federal REAL ID Act of 2005.

19 [302.065. 1. Notwithstanding section 32.090 or
20 any other provision of the law to the contrary, and
21 except as provided in subsection 4 of this section, the
22 department of revenue shall not retain copies, in any
23 format, of source documents presented by individuals
24 applying for or holding driver's licenses or
25 nondriver's licenses. The department of revenue shall
26 not use technology to capture digital images of source
27 documents so that the images are capable of being
28 retained in electronic storage in a transferable
29 format.

30 2. By December 31, 2013, the department of
31 revenue shall securely destroy so as to make
32 irretrievable any source documents that have been
33 obtained from driver's license or nondriver's license
34 applicants after September 1, 2012.

35 3. As long as the department of revenue has the
36 authority to issue a concealed carry endorsement, the

1 department shall not retain copies of any certificate
2 of qualification for a concealed carry endorsement
3 presented to the department for an endorsement on a
4 driver's license or nondriver's license under section
5 571.101. The department of revenue shall not use
6 technology to capture digital images of a certificate
7 of qualification nor shall the department retain
8 digital or electronic images of such certificates. The
9 department of revenue shall merely verify whether the
10 applicant for a driver's license or nondriver's license
11 has presented a certificate of qualification which will
12 allow the applicant to obtain a concealed carry
13 endorsement. By December 31, 2013, the department of
14 revenue shall securely destroy so as to make
15 irretrievable any copies of certificates of
16 qualification that have been obtained from driver's
17 license or nondriver's license applicants.

18 4. The provisions of this section shall not apply
19 to:

20 (1) Original application forms, which may be
21 retained but not scanned;

22 (2) Test score documents issued by state highway
23 patrol driver examiners;

24 (3) Documents demonstrating lawful presence of
25 any applicant who is not a citizen of the United
26 States, including documents demonstrating duration of
27 the person's lawful presence in the United States; and

28 (4) Any document required to be retained under
29 federal motor carrier regulations in Title 49, Code of
30 Federal Regulations, including but not limited to
31 documents required by federal law for the issuance of a
32 commercial driver's license and a commercial driver
33 instruction permit; and

34 (5) Any other document at the request of and for
35 the convenience of the applicant where the applicant
36 requests the department of revenue review alternative
37 documents as proof required for issuance of a driver's
38 license, nondriver's license, or instruction permit.

39 5. As used in this section, the term "source
40 documents" means original or certified copies, where
41 applicable, of documents presented by an applicant as
42 required under 6 CFR Part 37 to the department of
43 revenue to apply for a driver's license or nondriver's
44 license. Source documents shall also include any
45 documents required for the issuance of driver's
46 licenses or nondriver's licenses by the department of
47 revenue under the provisions of this chapter or
48 accompanying regulations.

49 6. Any person harmed or damaged by any violation
50 of this section may bring a civil action for damages,
51 including noneconomic and punitive damages, as well as

1 injunctive relief, in the circuit court where that
2 person resided at the time of the violation or in the
3 circuit court of Cole County to recover such damages
4 from the department of revenue and any persons
5 participating in such violation. Sovereign immunity
6 shall not be available as a defense for the department
7 of revenue in such an action. In the event the
8 plaintiff prevails on any count of his or her claim,
9 the plaintiff shall be entitled to recover reasonable
10 attorney fees from the defendants.]

11
12 [302.183. 1. Notwithstanding any provision of
13 this chapter that requires an applicant to provide
14 reasonable proof of residence for issuance or renewal
15 of a noncommercial driver's license, noncommercial
16 instruction permit, or a nondriver's license, an
17 applicant shall not have his or her privacy rights
18 violated in order to obtain or renew a Missouri
19 noncommercial driver's license, noncommercial
20 instruction permit, or a nondriver's license.

21 2. Any data derived from a person's application
22 shall not be sold for commercial purposes to any other
23 organization or any other state without the express
24 permission of the applicant without a court order;
25 except such information may be shared with a law
26 enforcement agency, judge, prosecuting attorney, or
27 officer of the court, or with another state for the
28 limited purposes set out in section 302.600 or for
29 conducting driver history checks in compliance with the
30 Motor Carrier Safety Improvement Act, 49 U.S.C. 31309.
31 The state of Missouri shall protect the privacy of its
32 citizens when handling any written, digital, or
33 electronic data, and shall not participate in any
34 standardized identification system using driver's and
35 nondriver's license records. For purposes of this
36 subsection, "commercial purposes" does not include data
37 used or compiled solely to be used for, or obtained or
38 compiled solely for purposes expressly allowed under
39 the Missouri or federal Drivers Privacy Protection Act.

40 3. The department of revenue shall not amend
41 procedures for applying for a driver's license or
42 identification card in order to comply with the goals
43 or standards of the federal REAL ID Act of 2005, any
44 rules or regulations promulgated under the authority
45 granted in such act, or any requirements adopted by the
46 American Association of Motor Vehicle Administrators
47 for furtherance of the act.

48 4. Any biometric data previously collected,
49 obtained, or retained in connection with motor vehicle
50 registration or operation, the issuance or renewal of
51 driver's licenses, or the issuance or renewal of any

1 identification cards by any department or agency of the
2 state charged with those activities shall be retrieved
3 and deleted from all databases. For purposes of this
4 section, "biometric data" includes, but is not limited
5 to:

- 6 (1) Facial feature pattern characteristics;
- 7 (2) Voice data used for comparing live speech
8 with a previously created speech model of a person's
9 voice;
- 10 (3) Iris recognition data containing color or
11 texture patterns or codes;
- 12 (4) Retinal scans, reading through the pupil to
13 measure blood vessels lining the retina;
- 14 (5) Fingerprint, palm prints, hand geometry,
15 measuring of any and all characteristics of biometric
16 information, including shape and length of fingertips
17 or recording ridge pattern or fingertip
18 characteristics;
- 19 (6) Eye spacing;
- 20 (7) Characteristic gait or walk;
- 21 (8) DNA;
- 22 (9) Keystroke dynamics, measuring pressure
23 applied to key pads or other digital receiving devices.

24 5. No citizen of this state shall have his or her
25 privacy compromised by the state or agents of the
26 state. The state shall within reason protect the
27 sovereignty of the citizens the state is entrusted to
28 protect.]
29

30 [302.189. 1. The department of revenue shall not
31 use, collect, obtain, share, or retain biometric data
32 nor shall the department use biometric technology,
33 including, but not limited to, retinal scanning, facial
34 recognition or fingerprint technology, to produce a
35 driver's license or nondriver's license or to uniquely
36 identify licensees or license applicants for whatever
37 purpose. This section shall not apply to digital
38 images nor licensee signatures required for the
39 issuance of driver's licenses and nondriver's license
40 pursuant to section 302.181.

41 2. As used in this section, the term "biometric
42 data" or "biometric technology" includes, but is not
43 limited to:

- 44 (1) Facial feature pattern characteristics;
- 45 (2) Voice data used for comparing live speech
46 with a previously created speech model of a person's
47 voice;
- 48 (3) Iris recognition data containing color or
49 texture patterns or codes;
- 50 (4) Retinal scans, reading through the pupil to
51 measure blood vessels lining the retina;

1 (5) Fingerprints, palm prints, hand geometry,
2 measuring of any and all characteristics of biometric
3 information, including shape and length of fingertips
4 or recording ridge pattern or fingertip
5 characteristics;

6 (6) Eye spacing;

7 (7) Characteristic gait or walk;

8 (8) DNA; or

9 (9) Keystroke dynamics, measuring pressure
10 applied to key pads or other digital receiving
11 devices.]
12

13 Section B. Because the freedom of travel and ability to
14 access federal facilities is of paramount importance for Missouri
15 citizens, section A of this act is deemed necessary for the
16 immediate preservation of the public health, welfare, peace and
17 safety, and is hereby declared to be an emergency act within the
18 meaning of the constitution, and section A of this act shall be
19 in full force and effect upon its passage and approval.