

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILLS NOS. 37 & 244

AN ACT

To repeal sections 302.065, 302.183, and 302.189, RSMo, and to enact in lieu thereof one new section relating to driver's licenses compliant with the federal REAL ID Act of 2005, with 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, and 302.189, RSMo,
2 are repealed and one new section enacted in lieu thereof, to be
3 known as section 302.170, to read as follows:

4 302.170. 1. As used in this section the following terms
5 shall mean:

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

8 (a) Facial feature pattern characteristics;

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

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

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

15 (e) Fingerprint, palm prints, hand geometry, measure of any
16 and all characteristics of biometric information, including shape

1 and length of fingertips, or recording ridge pattern or fingertip
2 characteristics;

3 (f) Eye spacing;

4 (g) Characteristic gait or walk;

5 (h) DNA;

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

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

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

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

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

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

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

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

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

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

19 4. (1) The department of revenue shall amend procedures
20 for applying for a driver's license or identification card in
21 order to comply with the goals or standards of the federal REAL
22 ID Act of 2005, any rules or regulations promulgated under the
23 authority granted in such Act, or any requirements adopted by the
24 American Association of Motor Vehicle Administrators for
25 furtherance of the Act, unless such action conflicts with
26 Missouri law.

27 (2) The department of revenue shall issue driver's licenses
28 or identification cards that are compliant with the federal REAL

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

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

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

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

22 c. The facial image capture will only be retained by the
23 department if the application is finished and submitted to the
24 department; and

25 d. Any other information the department deems necessary to
26 inform the applicant about the REAL ID compliant driver's license
27 or identification card under the REAL ID Act;

28 (b) With regard to a driver's license or identification

1 card that is not compliant with the REAL ID Act:

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

7 b. Source documents will be verified but no copies of such
8 documents will be retained by the department unless permitted
9 under subsection 3 of this section;

10 c. The facial image capture will be taken but not retained
11 by the department; and

12 d. Any other information the department deems necessary to
13 inform the applicant about the driver's license or identification
14 card.

15 5. Subsection 4 of this section shall be effective once the
16 department of revenue has been notified by the federal department
17 of homeland security that the department of revenue is able to
18 issue driver's licenses or identification cards that comply with
19 the federal REAL ID Act of 2005, as amended. Once the department
20 of revenue is so notified, it shall give notice of the same to
21 the speaker of the house of representatives, the president pro
22 tempore of the senate, and the revisor of statutes. The
23 department of revenue shall then issue driver's licenses and
24 identification cards in accordance with subsection 4 of this
25 section.

26 6. The department of revenue shall not use, collect,
27 obtain, share, or retain biometric data nor shall the department
28 use biometric technology to produce a driver's license or

1 nondriver's license or to uniquely identify licensees or license
2 applicants. This subsection shall not apply to digital images
3 nor licensee signatures required for the issuance of driver's
4 licenses and nondriver's licenses or to biometric data collected
5 from employees of the department of revenue, contracted license
6 offices, 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.

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

19 8. No citizen of this state shall have his or her privacy
20 compromised by the state or agents of the state. The state shall
21 within reason protect the sovereignty of the citizens the state
22 is entrusted to protect. Any data derived from a person's
23 application shall not be sold for commercial purposes to any
24 other organization or any other state without the express
25 permission of the applicant without a court order; except such
26 information may be shared with a law enforcement agency, judge,
27 prosecuting attorney, or officer of the court, or with another
28 state for the limited purposes set out in section 302.600 or for

1 conducting driver history checks in compliance with the Motor
2 Carrier Safety Improvement Act, 49 U.S.C. 31309. The state of
3 Missouri shall protect the privacy of its citizens when handling
4 any written, digital, or electronic data, and shall not
5 participate in any standardized identification system using
6 driver's and nondriver's license records except as provided in
7 this section.

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

19 10. The department of revenue may promulgate rules
20 necessary to implement the provisions of this section. Any rule
21 or portion of a rule, as that term is defined in section 536.010
22 that is created under the authority delegated in this section
23 shall become effective only if it complies with and is subject to
24 all of the provisions of chapter 536, and, if applicable, section
25 536.028. This section and chapter 536 are nonseverable and if
26 any of the powers vested with the general assembly pursuant to
27 chapter 536, to review, to delay the effective date, or to
28 disapprove and annul a rule are subsequently held

1 unconstitutional, then the grant of rulemaking authority and any
2 rule proposed or adopted after August 28, 2017, shall be invalid
3 and void.

4 11. Biometric data, digital images, source documents, and
5 licensee signatures, or any copies of the same, required to be
6 collected or retained to comply with the requirements of the
7 federal REAL ID Act of 2005 shall be retained for no longer than
8 the minimum duration required to maintain compliance, and
9 immediately thereafter shall be securely destroyed so as to make
10 them irretrievable.

11 [302.065. 1. Notwithstanding section 32.090 or
12 any other provision of the law to the contrary, and
13 except as provided in subsection 4 of this section, the
14 department of revenue shall not retain copies, in any
15 format, of source documents presented by individuals
16 applying for or holding driver's licenses or
17 nondriver's licenses. The department of revenue shall
18 not use technology to capture digital images of source
19 documents so that the images are capable of being
20 retained in electronic storage in a transferable
21 format.

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

27 3. As long as the department of revenue has the
28 authority to issue a concealed carry endorsement, the
29 department shall not retain copies of any certificate
30 of qualification for a concealed carry endorsement
31 presented to the department for an endorsement on a
32 driver's license or nondriver's license under section
33 571.101. The department of revenue shall not use
34 technology to capture digital images of a certificate
35 of qualification nor shall the department retain
36 digital or electronic images of such certificates. The
37 department of revenue shall merely verify whether the
38 applicant for a driver's license or nondriver's license
39 has presented a certificate of qualification which will
40 allow the applicant to obtain a concealed carry
41 endorsement. By December 31, 2013, the department of
42 revenue shall securely destroy so as to make
43 irretrievable any copies of certificates of

1 qualification that have been obtained from driver's
2 license or nondriver's license applicants.

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

5 (1) Original application forms, which may be
6 retained but not scanned;

7 (2) Test score documents issued by state highway
8 patrol driver examiners;

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

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

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

24 5. As used in this section, the term "source
25 documents" means original or certified copies, where
26 applicable, of documents presented by an applicant as
27 required under 6 CFR Part 37 to the department of
28 revenue to apply for a driver's license or nondriver's
29 license. Source documents shall also include any
30 documents required for the issuance of driver's
31 licenses or nondriver's licenses by the department of
32 revenue under the provisions of this chapter or
33 accompanying regulations.

34 6. Any person harmed or damaged by any violation
35 of this section may bring a civil action for damages,
36 including noneconomic and punitive damages, as well as
37 injunctive relief, in the circuit court where that
38 person resided at the time of the violation or in the
39 circuit court of Cole County to recover such damages
40 from the department of revenue and any persons
41 participating in such violation. Sovereign immunity
42 shall not be available as a defense for the department
43 of revenue in such an action. In the event the
44 plaintiff prevails on any count of his or her claim,
45 the plaintiff shall be entitled to recover reasonable
46 attorney fees from the defendants.]

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48 [302.183. 1. Notwithstanding any provision of
49 this chapter that requires an applicant to provide
50 reasonable proof of residence for issuance or renewal
51 of a noncommercial driver's license, noncommercial

1 instruction permit, or a nondriver's license, an
2 applicant shall not have his or her privacy rights
3 violated in order to obtain or renew a Missouri
4 noncommercial driver's license, noncommercial
5 instruction permit, or a nondriver's license.

6 2. Any data derived from a person's application
7 shall not be sold for commercial purposes to any other
8 organization or any other state without the express
9 permission of the applicant without a court order;
10 except such information may be shared with a law
11 enforcement agency, judge, prosecuting attorney, or
12 officer of the court, or with another state for the
13 limited purposes set out in section 302.600 or for
14 conducting driver history checks in compliance with the
15 Motor Carrier Safety Improvement Act, 49 U.S.C. 31309.
16 The state of Missouri shall protect the privacy of its
17 citizens when handling any written, digital, or
18 electronic data, and shall not participate in any
19 standardized identification system using driver's and
20 nondriver's license records. For purposes of this
21 subsection, "commercial purposes" does not include data
22 used or compiled solely to be used for, or obtained or
23 compiled solely for purposes expressly allowed under
24 the Missouri or federal Drivers Privacy Protection Act.

25 3. The department of revenue shall not amend
26 procedures for applying for a driver's license or
27 identification card in order to comply with the goals
28 or standards of the federal REAL ID Act of 2005, any
29 rules or regulations promulgated under the authority
30 granted in such act, or any requirements adopted by the
31 American Association of Motor Vehicle Administrators
32 for furtherance of the act.

33 4. Any biometric data previously collected,
34 obtained, or retained in connection with motor vehicle
35 registration or operation, the issuance or renewal of
36 driver's licenses, or the issuance or renewal of any
37 identification cards by any department or agency of the
38 state charged with those activities shall be retrieved
39 and deleted from all databases. For purposes of this
40 section, "biometric data" includes, but is not limited
41 to:

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

1 information, including shape and length of fingertips
2 or recording ridge pattern or fingertip
3 characteristics;
4 (6) Eye spacing;
5 (7) Characteristic gait or walk;
6 (8) DNA;
7 (9) Keystroke dynamics, measuring pressure
8 applied to key pads or other digital receiving devices.

9 5. No citizen of this state shall have his or her
10 privacy compromised by the state or agents of the
11 state. The state shall within reason protect the
12 sovereignty of the citizens the state is entrusted to
13 protect.]
14

15 [302.189. 1. The department of revenue shall not
16 use, collect, obtain, share, or retain biometric data
17 nor shall the department use biometric technology,
18 including, but not limited to, retinal scanning, facial
19 recognition or fingerprint technology, to produce a
20 driver's license or nondriver's license or to uniquely
21 identify licensees or license applicants for whatever
22 purpose. This section shall not apply to digital
23 images nor licensee signatures required for the
24 issuance of driver's licenses and nondriver's license
25 pursuant to section 302.181.

26 2. As used in this section, the term "biometric
27 data" or "biometric technology" includes, but is not
28 limited to:

- 29 (1) Facial feature pattern characteristics;
30 (2) Voice data used for comparing live speech
31 with a previously created speech model of a person's
32 voice;
33 (3) Iris recognition data containing color or
34 texture patterns or codes;
35 (4) Retinal scans, reading through the pupil to
36 measure blood vessels lining the retina;
37 (5) Fingerprints, palm prints, hand geometry,
38 measuring of any and all characteristics of biometric
39 information, including shape and length of fingertips
40 or recording ridge pattern or fingertip
41 characteristics;
42 (6) Eye spacing;
43 (7) Characteristic gait or walk;
44 (8) DNA; or
45 (9) Keystroke dynamics, measuring pressure
46 applied to key pads or other digital receiving
47 devices.]
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49 Section B. Because the freedom of travel and ability to
50 access federal facilities is of paramount importance for Missouri

1 citizens, section A of this act is deemed necessary for the
2 immediate preservation of the public health, welfare, peace and
3 safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.

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