

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 37 & 244

## 99TH GENERAL ASSEMBLY

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Reported from the Committee on Veterans and Military Affairs, January 26, 2017, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

0557S.03C

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### 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.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 302.065, 302.183, and 302.189, RSMo, are repealed  
2 and one new section enacted in lieu thereof, to be known as section 302.170, to  
3 read as follows:

**302.170. 1. As used in this section the following terms shall  
2 mean:**

3 **(1) "Biometric data", shall include, but not be limited to, the  
4 following:**

5 **(a) Facial feature pattern characteristics;**

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

8 **(c) Iris recognition data containing color or texture patterns or  
9 codes;**

10 **(d) Retinal scans, reading through the pupil to measure blood  
11 vessels lining the retina;**

12 **(e) Fingerprint, palm prints, hand geometry, measure of any and  
13 all characteristics of biometric information, including shape and length  
14 of fingertips, or recording ridge pattern or fingertip characteristics;**

15 **(f) Eye spacing;**

16 **(g) Characteristic gait or walk;**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 (h) DNA;

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

20 (2) "Commercial purposes", shall not include data used or  
21 compiled solely to be used for, or obtained or compiled solely for  
22 purposes expressly allowed under Missouri law or the federal Drivers  
23 Privacy Protection Act;

24 (3) "Source documents", original or certified copies, where  
25 applicable, of documents presented by an applicant as required under  
26 6 CFR Part 37 to the department of revenue to apply for a driver's  
27 license or nondriver's license. "Source documents" shall also include  
28 any documents required for the issuance of driver's licenses or  
29 nondriver's licenses by the department of revenue under the provisions  
30 of this chapter or accompanying regulations.

31 2. Except as provided in subsection 3 of this section and as  
32 required to carry out the provisions of subsection 4 of this section, the  
33 department of revenue shall not retain copies, in any format, of source  
34 documents presented by individuals applying for or holding driver's  
35 licenses or nondriver's licenses or use technology to capture digital  
36 images of source documents so that the images are capable of being  
37 retained in electronic storage in a transferable format.

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

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

41 (2) Test score documents issued by state highway patrol driver  
42 examiners;

43 (3) Documents demonstrating lawful presence of any applicant  
44 who is not a citizen of the United States, including documents  
45 demonstrating duration of the person's lawful presence in the United  
46 States;

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

52 (5) Any other document at the request of and for the convenience  
53 of the applicant where the applicant requests the department of

54 revenue review alternative documents as proof required for issuance  
55 of a driver's license, nondriver's license, or instruction permit.

56 4. The department of revenue shall amend procedures for  
57 applying for a driver's license or identification card in order to comply  
58 with the goals or standards of the federal REAL ID Act of 2005, any  
59 rules or regulations promulgated under the authority granted in such  
60 Act, or any requirements adopted by the American Association of Motor  
61 Vehicle Administrators for furtherance of the Act.

62 5. The department of revenue shall issue a driver's license or  
63 identification card that is not compliant with the federal REAL ID Act  
64 of 2005 to those individuals who object to being issued a REAL ID  
65 compliant driver's license or identification card, however, a driver's  
66 license or identification card that is not compliant with REAL ID shall  
67 not be valid for official federal purposes outline by the federal REAL  
68 ID Act of 2005 and shall state such on the driver's license or  
69 identification card. The department of revenue shall inform applicants  
70 of the option of being issued a REAL ID compliant driver's license or  
71 identification card or a driver's license or identification card that is  
72 not compliant with REAL ID. The department of revenue shall not  
73 retain the source documents of individuals applying for driver's  
74 licenses or identification cards not compliant with REAL ID.

75 6. The department of revenue shall not use, collect, obtain, share,  
76 or retain biometric data nor shall the department use biometric  
77 technology to produce a driver's license or nondriver's license or to  
78 uniquely identify licensees or license applicants. This subsection shall  
79 not apply to digital images nor licensee signatures required for the  
80 issuance of driver's licenses and nondriver's licenses or to biometric  
81 data collected from employees of the department of revenue in  
82 positions which require a background check in order to be compliant  
83 with the federal REAL ID Act or any rules or regulations promulgated  
84 under the authority of such Act.

85 7. Notwithstanding any provision of this chapter that requires  
86 an applicant to provide reasonable proof of lawful presence for  
87 issuance or renewal of a noncommercial driver's license,  
88 noncommercial instruction permit, or a nondriver's license, an  
89 applicant shall not have his or her privacy rights violated in order to  
90 obtain or renew a Missouri noncommercial driver's license,

91 noncommercial instruction permit, or a nondriver's license.

92           8. No citizen of this state shall have his or her privacy  
93 compromised by the state or agents of the state. The state shall within  
94 reason protect the sovereignty of the citizens the state is entrusted to  
95 protect. Any data derived from a person's application shall not be sold  
96 for commercial purposes to any other organization or any other state  
97 without the express permission of the applicant without a court order;  
98 except such information may be shared with a law enforcement agency,  
99 judge, prosecuting attorney, or officer of the court, or with another  
100 state for the limited purposes set out in section 302.600 or for  
101 conducting driver history checks in compliance with the Motor Carrier  
102 Safety Improvement Act, 49 U.S.C. 31309. The state of Missouri shall  
103 protect the privacy of its citizens when handling any written, digital,  
104 or electronic data, and shall not participate in any standardized  
105 identification system using driver's and nondriver's license records  
106 except as provided in this section.

107           9. Any person harmed or damaged by any violation of this  
108 section may bring a civil action for damages, including noneconomic  
109 and punitive damages, as well as injunctive relief, in the circuit court  
110 where that person resided at the time of the violation or in the circuit  
111 court of Cole County to recover such damages from the department of  
112 revenue and any persons participating in such violation. Sovereign  
113 immunity shall not be available as a defense for the department of  
114 revenue in such an action. In the event the plaintiff prevails on any  
115 count of his or her claim, the plaintiff shall be entitled to recover  
116 reasonable attorney fees from the defendants.

117           10. The department of revenue may promulgate rules necessary  
118 to implement the provisions of this section. Any rule or portion of a  
119 rule, as that term is defined in section 536.010 that is created under the  
120 authority delegated in this section shall become effective only if it  
121 complies with and is subject to all of the provisions of chapter 536, and,  
122 if applicable, section 536.028. This section and chapter 536 are  
123 nonseverable and if any of the powers vested with the general assembly  
124 pursuant to chapter 536, to review, to delay the effective date, or to  
125 disapprove and annul a rule are subsequently held unconstitutional,  
126 then the grant of rulemaking authority and any rule proposed or  
127 adopted after August 28, 2017, shall be invalid and void.

1 [302.065. 1. Notwithstanding section 32.090 or any other  
2 provision of the law to the contrary, and except as provided in  
3 subsection 4 of this section, the department of revenue shall not  
4 retain copies, in any format, of source documents presented by  
5 individuals applying for or holding driver's licenses or nondriver's  
6 licenses. The department of revenue shall not use technology to  
7 capture digital images of source documents so that the images are  
8 capable of being retained in electronic storage in a transferable  
9 format.

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

14 3. As long as the department of revenue has the authority  
15 to issue a concealed carry endorsement, the department shall not  
16 retain copies of any certificate of qualification for a concealed carry  
17 endorsement presented to the department for an endorsement on  
18 a driver's license or nondriver's license under section 571.101. The  
19 department of revenue shall not use technology to capture digital  
20 images of a certificate of qualification nor shall the department  
21 retain digital or electronic images of such certificates. The  
22 department of revenue shall merely verify whether the applicant  
23 for a driver's license or nondriver's license has presented a  
24 certificate of qualification which will allow the applicant to obtain  
25 a concealed carry endorsement. By December 31, 2013, the  
26 department of revenue shall securely destroy so as to make  
27 irretrievable any copies of certificates of qualification that have  
28 been obtained from driver's license or nondriver's license  
29 applicants.

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

31 (1) Original application forms, which may be retained but  
32 not scanned;

33 (2) Test score documents issued by state highway patrol  
34 driver examiners;

35 (3) Documents demonstrating lawful presence of any  
36 applicant who is not a citizen of the United States, including

37 documents demonstrating duration of the person's lawful presence  
38 in the United States; and

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

44 (5) Any other document at the request of and for the  
45 convenience of the applicant where the applicant requests the  
46 department of revenue review alternative documents as proof  
47 required for issuance of a driver's license, nondriver's license, or  
48 instruction permit.

49 5. As used in this section, the term "source documents"  
50 means original or certified copies, where applicable, of documents  
51 presented by an applicant as required under 6 CFR Part 37 to the  
52 department of revenue to apply for a driver's license or nondriver's  
53 license. Source documents shall also include any documents  
54 required for the issuance of driver's licenses or nondriver's licenses  
55 by the department of revenue under the provisions of this chapter  
56 or accompanying regulations.

57 6. Any person harmed or damaged by any violation of this  
58 section may bring a civil action for damages, including noneconomic  
59 and punitive damages, as well as injunctive relief, in the circuit  
60 court where that person resided at the time of the violation or in  
61 the circuit court of Cole County to recover such damages from the  
62 department of revenue and any persons participating in such  
63 violation. Sovereign immunity shall not be available as a defense  
64 for the department of revenue in such an action. In the event the  
65 plaintiff prevails on any count of his or her claim, the plaintiff  
66 shall be entitled to recover reasonable attorney fees from the  
67 defendants.]

[302.183. 1. Notwithstanding any provision of this chapter  
2 that requires an applicant to provide reasonable proof of residence  
3 for issuance or renewal of a noncommercial driver's license,  
4 noncommercial instruction permit, or a nondriver's license, an  
5 applicant shall not have his or her privacy rights violated in order

6 to obtain or renew a Missouri noncommercial driver's license,  
7 noncommercial instruction permit, or a nondriver's license.

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

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

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

- 38 (1) Facial feature pattern characteristics;  
39 (2) Voice data used for comparing live speech with a  
40 previously created speech model of a person's voice;  
41 (3) Iris recognition data containing color or texture patterns

42 or codes;

43 (4) Retinal scans, reading through the pupil to measure  
44 blood vessels lining the retina;

45 (5) Fingerprint, palm prints, hand geometry, measuring of  
46 any and all characteristics of biometric information, including  
47 shape and length of fingertips or recording ridge pattern or  
48 fingertip characteristics;

49 (6) Eye spacing;

50 (7) Characteristic gait or walk;

51 (8) DNA;

52 (9) Keystroke dynamics, measuring pressure applied to key  
53 pads or other digital receiving devices.

54 5. No citizen of this state shall have his or her privacy  
55 compromised by the state or agents of the state. The state shall  
56 within reason protect the sovereignty of the citizens the state is  
57 entrusted to protect.]

[302.189. 1. The department of revenue shall not use,  
2 collect, obtain, share, or retain biometric data nor shall the  
3 department use biometric technology, including, but not limited to,  
4 retinal scanning, facial recognition or fingerprint technology, to  
5 produce a driver's license or nondriver's license or to uniquely  
6 identify licensees or license applicants for whatever purpose. This  
7 section shall not apply to digital images nor licensee signatures  
8 required for the issuance of driver's licenses and nondriver's license  
9 pursuant to section 302.181.

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

12 (1) Facial feature pattern characteristics;

13 (2) Voice data used for comparing live speech with a  
14 previously created speech model of a person's voice;

15 (3) Iris recognition data containing color or texture patterns  
16 or codes;

17 (4) Retinal scans, reading through the pupil to measure  
18 blood vessels lining the retina;

19 (5) Fingerprints, palm prints, hand geometry, measuring of  
20 any and all characteristics of biometric information, including

- 21 shape and length of fingertips or recording ridge pattern or  
22 fingertip characteristics;
- 23 (6) Eye spacing;
- 24 (7) Characteristic gait or walk;
- 25 (8) DNA; or
- 26 (9) Keystroke dynamics, measuring pressure applied to key  
27 pads or other digital receiving devices.]

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

✓

Bill

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