

SECOND REGULAR SESSION

HOUSE BILL NO. 2681

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORLEW.

6786H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 302.170, RSMo, and to enact in lieu thereof one new section relating to driver's licenses compliant with the federal REAL ID Act.

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

Section A. Section 302.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.170, to read as follows:

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

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

(a) Facial feature pattern characteristics;

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

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

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

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

(f) Eye spacing;

(g) Characteristic gait or walk;

(h) DNA;

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) “Commercial purposes”, shall not include data used or compiled solely to be used
17 for, or obtained or compiled solely for purposes expressly allowed under Missouri law or the
18 federal Drivers Privacy Protection Act;

19 (3) “Source documents”, original or certified copies, where applicable, of documents
20 presented by an applicant as required under 6 CFR Part 37 to the department of revenue to apply
21 for a driver’s license or nondriver’s license. Source documents shall also include any documents
22 required for the issuance of driver’s licenses or nondriver’s licenses by the department of revenue
23 under the provisions of this chapter or accompanying regulations.

24 2. Except as provided in subsection 3 of this section and as required to carry out the
25 provisions of subsection 4 of this section, the department of revenue shall not retain copies, in
26 any format, of source documents presented by individuals applying for or holding driver’s
27 licenses or nondriver’s licenses or use technology to capture digital images of source documents
28 so that the images are capable of being retained in electronic storage in a transferable format.
29 Documents retained as provided or required by ~~subsections 3 and~~ **subsection 4** of this section
30 shall be stored solely on a system not connected to the internet nor to a wide area network that
31 connects to the internet. Once stored on such system, the documents and data shall be purged
32 from any systems on which they were previously stored so as to make them irretrievable.

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

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

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

37 (3) Documents demonstrating lawful presence of any applicant who is not a citizen of
38 the United States, including documents demonstrating duration of the person’s lawful presence
39 in the United States;

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

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

46 4. (1) To the extent not prohibited under subsection 13 of this section, the department
47 of revenue shall amend procedures for applying for a driver’s license or identification card in
48 order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or
49 regulations promulgated under the authority granted in such Act, or any requirements adopted
50 by the American Association of Motor Vehicle Administrators for furtherance of the Act, unless
51 such action conflicts with Missouri law.

52 (2) The department of revenue shall issue driver's licenses or identification cards that
53 are compliant with the federal REAL ID Act of 2005, as amended, to all applicants for driver's
54 licenses or identification cards unless an applicant requests a driver's license or identification
55 card that is not REAL ID compliant. Except as provided in subsection 3 of this section and as
56 required to carry out the provisions of this subsection, the department of revenue shall not retain
57 the source documents of individuals applying for driver's licenses or identification cards not
58 compliant with REAL ID. Upon initial application for a driver's license or identification card,
59 the department shall inform applicants of the option of being issued a REAL ID compliant
60 driver's license or identification card or a driver's license or identification card that is not
61 compliant with REAL ID. The department shall inform all applicants:

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

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

66 b. Electronic copies of source documents will be retained by the department and
67 destroyed after the minimum time required for **digital** retention by the federal REAL ID Act of
68 2005, as amended;

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

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

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

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

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

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

83 5. The department of revenue shall not use, collect, obtain, share, or retain biometric data
84 nor shall the department use biometric technology to produce a driver's license or nondriver's
85 license or to uniquely identify licensees or license applicants. This subsection shall not apply
86 to digital images nor licensee signatures required for the issuance of driver's licenses and
87 nondriver's licenses or to biometric data collected from employees of the department of revenue,

88 employees of the office of administration who provide information technology support to the
89 department of revenue, contracted license offices, and contracted manufacturers engaged in the
90 production, processing, or manufacture of driver's licenses or identification cards in positions
91 which require a background check in order to be compliant with the federal REAL ID Act or any
92 rules or regulations promulgated under the authority of such Act. Except as otherwise provided
93 by law, applicants' source documents and Social Security numbers shall not be stored in any
94 database accessible by any other state or the federal government. Such database shall contain
95 only the data fields included on driver's licenses and nondriver identification cards compliant
96 with the federal REAL ID Act, and the driving records of the individuals holding such driver's
97 licenses and nondriver identification cards.

98 6. Notwithstanding any provision of this chapter that requires an applicant to provide
99 reasonable proof of lawful presence for issuance or renewal of a noncommercial driver's license,
100 noncommercial instruction permit, or a nondriver's license, an applicant shall not have his or her
101 privacy rights violated in order to obtain or renew a Missouri noncommercial driver's license,
102 noncommercial instruction permit, or a nondriver's license.

103 7. No citizen of this state shall have his or her privacy compromised by the state or
104 agents of the state. The state shall within reason protect the sovereignty of the citizens the state
105 is entrusted to protect. Any data derived from a person's application shall not be sold for
106 commercial purposes to any other organization or any other state without the express permission
107 of the applicant without a court order; except such information may be shared with a law
108 enforcement agency, judge, prosecuting attorney, or officer of the court, or with another state for
109 the limited purposes set out in section 302.600, or for the purposes set forth in section 32.091,
110 or for conducting driver history checks in compliance with the Motor Carrier Safety
111 Improvement Act, 49 U.S.C. Section 31309. The state of Missouri shall protect the privacy of
112 its citizens when handling any written, digital, or electronic data, and shall not participate in any
113 standardized identification system using driver's and nondriver's license records except as
114 provided in this section.

115 8. Other than to process a request by a license or card holder or applicant, no person shall
116 access, distribute, or allow access to or distribution of any written, digital, or electronic data
117 collected or retained under this section without the express permission of the applicant or a court
118 order, except that such information may be shared with a law enforcement agency, judge,
119 prosecuting attorney, or officer of the court, or with another state for the limited purposes set out
120 in section 302.600 or for conducting driver history checks in compliance with the Motor Carrier
121 Safety Improvement Act, 49 U.S.C. Section 31309. A first violation of this subsection shall be
122 a class A misdemeanor. A second violation of this subsection shall be a class E felony. A third
123 or subsequent violation of this subsection shall be a class D felony.

124 9. Any person harmed or damaged by any violation of this section may bring a civil
125 action for damages, including noneconomic and punitive damages, as well as injunctive relief,
126 in the circuit court where that person resided at the time of the violation or in the circuit court
127 of Cole County to recover such damages from the department of revenue and any persons
128 participating in such violation. Sovereign immunity shall not be available as a defense for the
129 department of revenue in such an action. In the event the plaintiff prevails on any count of his
130 or her claim, the plaintiff shall be entitled to recover reasonable attorney fees from the
131 defendants.

132 10. The department of revenue may promulgate rules necessary to implement the
133 provisions of this section. Any rule or portion of a rule, as that term is defined in section
134 536.010, that is created under the authority delegated in this section shall become effective only
135 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
136 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
137 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
138 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
139 and any rule proposed or adopted after August 28, 2017, shall be invalid and void.

140 11. Biometric data, digital images, source documents, and licensee signatures, or any
141 copies of the same, required to be collected or retained to comply with the requirements of the
142 federal REAL ID Act of 2005 shall be **digitally** retained for no longer than the minimum
143 duration required to maintain compliance, and immediately thereafter shall be securely destroyed
144 so as to make them irretrievable.

145 12. No agency, department, or official of this state or of any political subdivision thereof
146 shall use, collect, obtain, share, or retain radio frequency identification data from a REAL ID
147 compliant driver's license or identification card issued by a state, nor use the same to uniquely
148 identify any individual.

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

157 14. If the federal REAL ID Act of 2005 is modified or repealed such that driver's
158 licenses and identification cards issued by this state that are not compliant with the federal REAL
159 ID Act of 2005 are once again sufficient for federal identification purposes, the department shall

160 not issue a driver's license or identification card that complies with the federal REAL ID Act of
161 2005 and shall securely destroy, within thirty days, any source documents retained by the
162 department for the purpose of compliance with such Act.

163 15. The provisions of this section shall expire five years after August 28, 2017.

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