

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 2 FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 151
99TH GENERAL ASSEMBLY

0401S.05T

2017

AN ACT

To repeal sections 302.065, 302.183, 302.185, 302.188, and 302.189, RSMo, and to enact in lieu thereof four new sections relating to forms of identification, with penalty provisions.

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

Section A. Sections 302.065, 302.183, 302.185, 302.188, and 302.189, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 302.170,
3 302.185, 302.188, and 1, to read as follows:

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

- 2 **(1) "Biometric data", shall include, but not be limited to, the following:**
3 **(a) Facial feature pattern characteristics;**
4 **(b) Voice data used for comparing live speech with a previously created speech**
5 **model of a person's voice;**
6 **(c) Iris recognition data containing color or texture patterns or codes;**
7 **(d) Retinal scans, reading through the pupil to measure blood vessels lining the**
8 **retina;**
9 **(e) Fingerprint, palm prints, hand geometry, measure of any and all characteristics**
10 **of biometric information, including shape and length of fingertips, or recording ridge**
11 **pattern or fingertip characteristics;**
12 **(f) Eye spacing;**
13 **(g) Characteristic gait or walk;**

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.

14 (h) DNA;

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

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

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

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

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

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

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

40 (3) Documents demonstrating lawful presence of any applicant who is not a citizen
41 of the United States, including documents demonstrating duration of the person's lawful
42 presence in the United States;

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

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

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

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

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

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

71 **b. Electronic copies of source documents will be retained by the department and**
72 **destroyed after the minimum time required for retention by the federal REAL ID Act of**
73 **2005, as amended;**

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

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

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

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

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

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

89 **5. The department of revenue shall not use, collect, obtain, share, or retain**
90 **biometric data nor shall the department use biometric technology to produce a driver's**
91 **license or nondriver's license or to uniquely identify licensees or license applicants. This**
92 **subsection shall not apply to digital images nor licensee signatures required for the**
93 **issuance of driver's licenses and nondriver's licenses or to biometric data collected from**
94 **employees of the department of revenue, employees of the office of administration who**
95 **provide information technology support to the department of revenue, contracted license**
96 **offices, and contracted manufacturers engaged in the production, processing, or**
97 **manufacture of driver's licenses or identification cards in positions which require a**
98 **background check in order to be compliant with the federal REAL ID Act or any rules or**
99 **regulations promulgated under the authority of such Act. Except as otherwise provided**
100 **by law, applicants' source documents and social security numbers shall not be stored in**
101 **any database accessible by any other state or the federal government. Such database shall**
102 **contain only the data fields included on driver's licenses and nondriver identification cards**
103 **compliant with the federal REAL ID Act, and the driving records of the individuals**
104 **holding such driver's licenses and nondriver identification cards.**

105 **6. Notwithstanding any provision of this chapter that requires an applicant to**
106 **provide reasonable proof of lawful presence for issuance or renewal of a noncommercial**
107 **driver's license, noncommercial instruction permit, or a nondriver's license, an applicant**
108 **shall not have his or her privacy rights violated in order to obtain or renew a Missouri**
109 **noncommercial driver's license, noncommercial instruction permit, or a nondriver's**
110 **license.**

111 **7. No citizen of this state shall have his or her privacy compromised by the state or**
112 **agents of the state. The state shall within reason protect the sovereignty of the citizens the**
113 **state is entrusted to protect. Any data derived from a person's application shall not be sold**
114 **for commercial purposes to any other organization or any other state without the express**
115 **permission of the applicant without a court order; except such information may be shared**
116 **with a law enforcement agency, judge, prosecuting attorney, or officer of the court, or with**
117 **another state for the limited purposes set out in section 302.600, or for the purposes set**
118 **forth in section 32.091, or for conducting driver history checks in compliance with the**
119 **Motor Carrier Safety Improvement Act, 49 U.S.C. Section 31309. The state of Missouri**

120 shall protect the privacy of its citizens when handling any written, digital, or electronic
121 data, and shall not participate in any standardized identification system using driver's and
122 nondriver's license records except as provided in this section.

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

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

141 **10. The department of revenue may promulgate rules necessary to implement the**
142 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
143 **536.010 that is created under the authority delegated in this section shall become effective**
144 **only if it complies with and is subject to all of the provisions of chapter 536, and, if**
145 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
146 **the powers vested with the general assembly pursuant to chapter 536, to review, to delay**
147 **the effective date, or to disapprove and annul a rule are subsequently held**
148 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
149 **after August 28, 2017, shall be invalid and void.**

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

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

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

167 **14. If the federal REAL ID Act of 2005 is modified or repealed such that driver's**
168 **licenses and identification cards issued by this state that are not compliant with the federal**
169 **REAL ID Act of 2005 are once again sufficient for federal identification purposes, the**
170 **department shall not issue a driver's license or identification card that complies with the**
171 **federal REAL ID Act of 2005 and shall securely destroy, within thirty days, any source**
172 **documents retained by the department for the purpose of compliance with such act.**

173 **15. The provisions of this section shall expire five years after the effective date of**
174 **this section.**

302.185. In the event that a license issued under sections 302.010 to 302.780 shall be lost
2 or destroyed or when a veteran seeks a veteran designation under section 302.188 prior to the
3 expiration of a license **or when a person who has a license or identification card issued prior**
4 **to the effective date of this act applies for a REAL ID compliant driver's license or**
5 **identification card because noncompliant driver's licenses or identification cards issued by**
6 **this state are no longer accepted as sufficient identification for domestic air travel, but not**
7 where a license has been suspended, taken up, revoked, disqualified, or deposited in lieu of bail,
8 hereinafter provided, the person to whom the license as was issued may obtain a duplicate license
9 upon furnishing proper identification and satisfactory proof to the director or his authorized
10 license agents that the license has been lost or destroyed, and upon payment of a fee of fifteen
11 dollars for a duplicate license if the person transports persons or property as classified in section
12 302.015, and a fee of seven dollars and fifty cents for all other duplicate classifications of
13 license. **The department of revenue shall not collect a duplicate license fee for issuance of**
14 **a REAL ID compliant driver's license or identification card to a person not previously**
15 **issued a REAL ID compliant driver's license or identification card.**

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

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

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

9 (3) **A United States Department of Veterans Affairs photo identification card; or**

10 (4) **A discharge document WD AGO 53, WD AGO 55, WD AGO 53-55, NAVPERS**
 11 **553, NAVMC 78 PD, NAVCG 553, or DD 215 form that shows a discharge status of**
 12 **"honorable" or "general under honorable conditions"; and**

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

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

17 3. The department of revenue may determine the appropriate placement of the veteran
 18 designation on the driver's licenses and identification cards authorized under this section and may
 19 promulgate the necessary rules for administration of this section.

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

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

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

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

~~3. As long as the department of revenue has the authority to issue a
 12 concealed carry endorsement, the department shall not retain copies of any~~

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

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

25 ~~(1) Original application forms, which may be retained but not scanned;~~

26 ~~(2) Test score documents issued by state highway patrol driver~~
 27 ~~examiners;~~

28 ~~(3) Documents demonstrating lawful presence of any applicant who is~~
 29 ~~not a citizen of the United States, including documents demonstrating duration~~
 30 ~~of the person's lawful presence in the United States; and~~

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

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

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

46 ~~6. Any person harmed or damaged by any violation of this section may~~
 47 ~~bring a civil action for damages, including noneconomic and punitive damages,~~
 48 ~~as well as injunctive relief, in the circuit court where that person resided at the~~
 49 ~~time of the violation or in the circuit court of Cole County to recover such~~
 50 ~~damages from the department of revenue and any persons participating in such~~
 51 ~~violation. Sovereign immunity shall not be available as a defense for the~~
 52 ~~department of revenue in such an action. In the event the plaintiff prevails on any~~
 53 ~~count of his or her claim, the plaintiff shall be entitled to recover reasonable~~
 54 ~~attorney fees from the defendants.]~~

2 [302.183. 1. Notwithstanding any provision of this chapter that requires
 an applicant to provide reasonable proof of residence for issuance or renewal of

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

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

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

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

32 ~~(1) Facial feature pattern characteristics;~~

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

35 ~~(3) Iris recognition data containing color or texture patterns or codes;~~

36 ~~(4) Retinal scans, reading through the pupil to measure blood vessels~~
37 ~~lining the retina;~~

38 ~~(5) Fingerprint, palm prints, hand geometry, measuring of any and all~~
39 ~~characteristics of biometric information, including shape and length of fingertips~~
40 ~~or recording ridge pattern or fingertip characteristics;~~

41 ~~(6) Eye spacing;~~

42 ~~(7) Characteristic gait or walk;~~

43 ~~(8) DNA;~~

44 ~~(9) Keystroke dynamics, measuring pressure applied to key pads or other~~
45 ~~digital receiving devices.~~

46 ~~5. No citizen of this state shall have his or her privacy compromised by~~
47 ~~the state or agents of the state. The state shall within reason protect the~~
48 ~~sovereignty of the citizens the state is entrusted to protect.]~~

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

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

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

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