

SECOND REGULAR SESSION

HOUSE BILL NO. 1649

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRANZ (Sponsor), NIEVES, PORTWOOD, BIVINS, JONES (89), FLOOK, BROWN (30), GRISAMORE, DETHROW, CUNNINGHAM (86), RUESTMAN, SMITH (150), ONDER, YATES, SANDER, WALLACE, FISHER, STREAM, POLLOCK, SCHAD, SATER, WELLS AND JONES (117) (Co-sponsors).

Read 1st time January 15, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3140L.01I

AN ACT

To repeal sections 302.060, 302.177, 302.181, 589.400, and 589.417, RSMo, and to enact in lieu thereof five new sections relating to driver's licenses for convicted sex offenders, with penalty provisions.

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

Section A. Sections 302.060, 302.177, 302.181, 589.400, and 589.417, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 302.060, 302.177,
3 302.181, 589.400, and 589.417, to read as follows:

302.060. The director shall not issue any license and shall immediately deny any driving
2 privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any
7 person whose license has been revoked, until the expiration of one year after such license was
8 revoked;

9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

10 (5) To any person who has previously been adjudged to be incapacitated and who at the
11 time of application has not been restored to partial capacity;

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.

12 (6) To any person who, when required by this law to take an examination, has failed to
13 pass such examination;

14 (7) To any person who has an unsatisfied judgment against such person, as defined in
15 chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such
16 person, as defined in section 303.120, RSMo, has been established;

17 (8) To any person whose application shows that the person has been convicted within
18 one year prior to such application of violating the laws of this state relating to failure to stop after
19 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
20 consent;

21 (9) To any person who has been convicted more than twice of violating state law, or a
22 county or municipal ordinance where the defendant was represented by or waived the right to an
23 attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten
24 years from the date of conviction of the last offense of violating such law or ordinance relating
25 to driving while intoxicated, a person who was so convicted may petition the circuit court of the
26 county in which such last conviction was rendered and the court shall review the person's habits
27 and conduct since such conviction. If the court finds that the petitioner has not been convicted
28 of any offense related to alcohol, controlled substances or drugs during the preceding ten years
29 and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the
30 public safety of this state, the court may order the director to issue a license to the petitioner if
31 the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540.
32 No person may obtain a license pursuant to the provisions of this subdivision through court
33 action more than one time;

34 (10) To any person who has been convicted twice within a five-year period of violating
35 state law, or a county or municipal ordinance where the defendant was represented by or waived
36 the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the
37 crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition.
38 The director shall not issue a license to such person for five years from the date such person was
39 convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated
40 condition or for driving while intoxicated for the second time. Any person who has been denied
41 a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the
42 person's license issued, upon application, unless the two convictions occurred within a five-year
43 period, in which case, no license shall be issued to the person for five years from the date of the
44 second conviction;

45 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
46 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

47 (12) To any person who is under the age of eighteen years, if such person's parents or
48 legal guardians file a certified document with the department of revenue stating that the director
49 shall not issue such person a driver's license. Each document filed by the person's parents or
50 legal guardians shall be made upon a form furnished by the director and shall include identifying
51 information of the person for whom the parents or legal guardians are denying the driver's
52 license. The document shall also contain identifying information of the person's parents or legal
53 guardians. The document shall be certified by the parents or legal guardians to be true and
54 correct. This provision shall not apply to any person who is legally emancipated. The parents
55 or legal guardians may later file an additional document with the department of revenue which
56 reinstates the person's ability to receive a driver's license;

57 **(13) To any person who is required to register under section 589.400, RSMo, who**
58 **fails to comply with such requirement.**

302.177. 1. To all applicants for a license or renewal to transport persons or property
2 classified in section 302.015 who are at least twenty- one years of age and under the age of
3 seventy, and who submit a satisfactory application and meet the requirements of sections
4 302.010 to 302.605, the director shall issue or renew such license; except that no license shall
5 be issued if an applicant's license is currently suspended, canceled, revoked, disqualified, or
6 deposited in lieu of bail. Such license shall expire on the applicant's birthday in the sixth year
7 of issuance, unless the license must be issued for a shorter period due to other requirements of
8 law or for transition or staggering of work as determined by the director. The license must be
9 renewed on or before the date of expiration, which date shall be shown on the license.

10 2. To all applicants for a license or renewal to transport persons or property classified
11 in section 302.015 who are less than twenty-one years of age or greater than sixty-nine years of
12 age, and who submit a satisfactory application and meet the requirements of sections 302.010
13 to 302.605, the director shall issue or renew such license; except that no license shall be issued
14 if an applicant's license is currently suspended, canceled, revoked, disqualified, or deposited in
15 lieu of bail. Such license shall expire on the applicant's birthday in the third year of issuance,
16 unless the license must be issued for a shorter period due to other requirements of law or for
17 transition or staggering of work as determined by the director. The license must be renewed on
18 or before the date of expiration, which date shall be shown on the license. A license issued under
19 this section to an applicant who is over the age of sixty-nine and contains a school bus
20 endorsement shall not be issued for a period that exceeds one year.

21 3. To all other applicants for a license or renewal of a license who are at least twenty-one
22 years of age and under the age of seventy, and who submit a satisfactory application and meet
23 the requirements of sections 302.010 to 302.605, the director shall issue or renew such license;
24 except that no license shall be issued if an applicant's license is currently suspended, canceled,

25 revoked, disqualified, or deposited in lieu of bail. Such license shall expire on the applicant's
26 birthday in the sixth year of issuance, unless the license must be issued for a shorter period due
27 to other requirements of law or for transition or staggering of work as determined by the director.
28 The license must be renewed on or before the date of expiration, which date shall be shown on
29 the license.

30 4. To all other applicants for a license or renewal of a license who are less than
31 twenty-one years of age or greater than sixty-nine years of age, and who submit a satisfactory
32 application and meet the requirements of sections 302.010 to 302.605, the director shall issue
33 or renew such license; except that no license shall be issued if an applicant's license is currently
34 suspended, canceled, revoked, disqualified, or deposited in lieu of bail. Such license shall expire
35 on the applicant's birthday in the third year of issuance, unless the license must be issued for a
36 shorter period due to other requirements of law or for transition or staggering of work as
37 determined by the director. The license must be renewed on or before the date of expiration,
38 which date shall be shown on the license.

39 5. **Notwithstanding the provisions of this section to the contrary, the license of a**
40 **person registered as a sex offender under section 589.400, RSMo, shall expire after a one-**
41 **year duration, unless the license must be issued for a shorter period due to other**
42 **requirements of law.**

43 6. The fee for a license issued for a period which exceeds three years under subsection
44 1 of this section shall be thirty dollars.

45 [6.] 7. The fee for a license issued for a period of three years or less under subsection 2
46 of this section shall be fifteen dollars, except that the fee for a license issued for one year or less
47 which contains a school bus endorsement shall be five dollars.

48 [7.] 8. The fee for a license issued for a period which exceeds three years under
49 subsection 3 of this section shall be fifteen dollars.

50 [8.] 9. The fee for a license issued for a period of three years or less under subsection 4
51 of this section shall be seven dollars and fifty cents.

52 **10. The fee for a license issued for a period of one year under subsection 5 of this**
53 **section shall be seven dollars and fifty cents.**

54 [9.] 11. Beginning July 1, 2005, the director shall not issue a driver's license for a period
55 that exceeds an applicant's lawful presence in the United States. The director may establish
56 procedures to verify the lawful presence of the applicant and establish the duration of any driver's
57 license issued under this section.

58 [10.] 12. The director of revenue may adopt any rules and regulations necessary to carry
59 out the provisions of this section. No rule or portion of a rule promulgated pursuant to the

60 authority of this section shall become effective unless it has been promulgated pursuant to the
61 provisions of chapter 536, RSMo.

302.181. 1. The license issued pursuant to the provisions of sections 302.010 to 302.340
2 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic
3 or other comparable material. All licenses shall be manufactured of materials and processes that
4 will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate
5 any license without ready detection. All licenses shall bear the licensee's Social Security number,
6 if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that
7 the licensee does not possess a Social Security number, or, if applicable, a certified statement
8 must be submitted as provided in subsection 4 of this section. The license shall also bear the
9 expiration date of the license, the classification of the license, the name, date of birth, residence
10 address including the county of residence or a code number corresponding to such county
11 established by the department, and brief description and colored photograph or digitized image
12 of the licensee, and a facsimile of the signature of the licensee. **The license shall also contain**
13 **a unique code or identifier predominately displayed on the license if the licensee is a**
14 **registered sex offender under section 589.400, RSMo, whose name appears on the sex**
15 **offender list supplied to the department of revenue by the Missouri state highway patrol**
16 **under section 589.410, RSMo.** The director shall provide by administrative rule **the details of**
17 **how such unique code or identifier will appear on the face of a license issued to a registered**
18 **sex offender and** the procedure and format for a licensee to indicate on the back of the license
19 together with the designation for an anatomical gift as provided in section 194.240, RSMo, the
20 name and address of the person designated pursuant to sections 404.800 to 404.865, RSMo, as
21 the licensee's attorney in fact for the purposes of a durable power of attorney for health care
22 decisions. No license shall be valid until it has been so signed by the licensee. If any portion of
23 the license is prepared by a private firm, any contract with such firm shall be made in accordance
24 with the competitive purchasing procedures as established by the state director of the division
25 of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social
26 Security number shall serve as the applicant's license number. Where the licensee has no Social
27 Security number, or where the licensee is issued a license without a Social Security number in
28 accordance with subsection 4 of this section, the director shall issue a license number for the
29 licensee and such number shall also include an indicator showing that the number is not a Social
30 Security number.

31 2. All film involved in the production of photographs for licenses shall become the
32 property of the department of revenue.

33 3. The license issued shall be carried at all times by the holder thereof while driving a
34 motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any

35 police officer or peace officer, or any other duly authorized person, for inspection when demand
36 is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any
37 duly authorized officer shall be presumptive evidence that such person is not a duly licensed
38 operator.

39 4. The director of revenue shall issue a commercial or noncommercial driver's license
40 without a Social Security number to an applicant therefor, who is otherwise qualified to be
41 licensed, upon presentation to the director of a certified statement that the applicant objects to
42 the display of the Social Security number on the license. The director shall assign an
43 identification number, that is not based on a Social Security number, to the applicant which shall
44 be displayed on the license in lieu of the Social Security number.

45 5. The director of revenue shall not issue a license without a facial photograph or digital
46 image of the license applicant, except as provided pursuant to subsection 8 of this section. A
47 photograph or digital image of the applicant's full facial features shall be taken in a manner
48 prescribed by the director. No photograph or digital image will be taken wearing anything which
49 cloaks the facial features of the individual.

50 6. The department of revenue may issue a temporary license or a full license without the
51 photograph or with the last photograph or digital image in the department's records to members
52 of the armed forces, except that where such temporary license is issued it shall be valid only until
53 the applicant shall have had time to appear and have his or her picture taken and a license with
54 his or her photograph issued.

55 7. The department of revenue shall issue upon request a nondriver's license card
56 containing essentially the same information and photograph or digital image, except as provided
57 pursuant to subsection 8 of this section, as the driver's license upon payment of six dollars. All
58 nondriver's licenses shall expire on the applicant's birthday in the sixth year after issuance. A
59 person who has passed his or her seventieth birthday shall upon application be issued a
60 nonexpiring nondriver's license card. The nondriver's license card shall be used for identification
61 purposes only and shall not be valid as a license.

62 8. If otherwise eligible, an applicant may receive a driver's license or nondriver's license
63 without a photograph or digital image of the applicant's full facial features except that such
64 applicant's photograph or digital image shall be taken and maintained by the director and not
65 printed on such license. In order to qualify for a license without a photograph or digital image
66 pursuant to this section the applicant must:

67 (1) Present a form provided by the department of revenue requesting the applicant's
68 photograph be omitted from the license or nondriver's license due to religious affiliations. The
69 form shall be signed by the applicant and another member of the religious tenant verifying the
70 photograph or digital image exemption on the license or nondriver's license is required as part

71 of their religious affiliation. The required signatures on the prescribed form shall be properly
72 notarized;

73 (2) Provide satisfactory proof to the director that the applicant has been a U.S. citizen
74 for at least five years and a resident of this state for at least one year, except that an applicant
75 moving to this state possessing a valid driver's license from another state without a photograph,
76 shall be exempt from the one-year state residency requirement. The director may establish rules
77 necessary to determine satisfactory proof of citizenship and residency pursuant to this section;

78 (3) Applications for a driver's license or nondriver's license without a photograph or
79 digital image must be made in person at a license office determined by the director. The director
80 is authorized to limit the number of offices that may issue a driver's or nondriver's license
81 without a photograph or digital image pursuant to this section.

82 9. The department of revenue shall make available, at one or more locations within the
83 state, an opportunity for individuals to have their full facial photograph taken by an employee
84 of the department of revenue, or their designee, who is of the same sex as the individual being
85 photographed, in a segregated location.

86 10. Beginning July 1, 2005, the director shall not issue a driver's license or a nondriver's
87 license for a period that exceeds an applicant's lawful presence in the United States. The director
88 may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and
89 establish the duration of any driver's license or nondriver's license issued under this section.

90 11. No rule or portion of a rule promulgated pursuant to the authority of this chapter
91 shall become effective unless it is promulgated pursuant to the provisions of chapter 536, RSMo.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
3 guilty of, or pled guilty or nolo contendere to committing, or attempting to commit, a felony
4 offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of
5 a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a
6 minor; or

7 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
8 guilty of, or pled guilty or nolo contendere to committing, or attempting to commit one or more
9 of the following offenses: kidnapping when the victim was a child and the defendant was not a
10 parent or guardian of the child; felonious restraint when the victim was a child and the defendant
11 is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a
12 nursing home, under section 565.200, RSMo; endangering the welfare of a child under section
13 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child,
14 under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution
15 in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor;

16 promoting child pornography in the first degree; promoting child pornography in the second
17 degree; possession of child pornography; furnishing pornographic material to minors; public
18 display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity
19 in the first degree; promoting pornography for minors or obscenity in the second degree; incest;
20 use of a child in a sexual performance; or promoting sexual performance by a child; and
21 committed or attempted to commit the offense against a victim who is a minor, defined for the
22 purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

23 (3) Any person who, since July 1, 1979, has been committed to the department of mental
24 health as a criminal sexual psychopath; or

25 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
26 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

27 (5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
28 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, foreign
29 country, or under federal or military jurisdiction to committing, or attempting to commit, an
30 offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony
31 violation of any offense listed in subdivision (2) of this subsection or has been or is required to
32 register in another state or has been or is required to register under federal or military law; or

33 (6) Any person who has been or is required to register in another state or has been or is
34 required to register under federal or military law and who works or attends school or training on
35 a full-time or on a part-time basis or has a temporary residence in Missouri. "Part-time" in this
36 subdivision means for more than fourteen days in any twelve-month period.

37 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of
38 conviction, release from incarceration, or placement upon probation, register with the chief law
39 enforcement official of the county or city not within a county in which such person resides unless
40 such person has already registered in that county for the same offense. Any person to whom
41 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall
42 register with the chief law enforcement official of such county or city not within a county within
43 ten days of August 28, 2003. The chief law enforcement official shall forward a copy of the
44 registration form required by section 589.407 to a city, town, village, or campus law enforcement
45 agency located within the county of the chief law enforcement official, if so requested. Such
46 request may ask the chief law enforcement official to forward copies of all registration forms
47 filed with such official. The chief law enforcement official may forward a copy of such
48 registration form to any city, town, village, or campus law enforcement agency, if so requested.

49 3. The registration requirements of sections 589.400 through 589.425 are lifetime
50 registration requirements unless:

51 (1) All offenses requiring registration are reversed, vacated or set aside;

52 (2) The registrant is pardoned of the offenses requiring registration;

53 (3) The registrant is no longer required to register and his or her name shall be removed
54 from the registry under the provisions of subsection 6 of this section; or

55 (4) The registrant may petition the court for removal from the registry under subsection
56 7 or 8 of this section and the court orders the removal of such person from the registry.

57 4. For processing an initial sex offender registration the chief law enforcement officer
58 of the county or city not within a county may charge the offender registering a fee of up to ten
59 dollars.

60 5. For processing any change in registration required pursuant to section 589.414 the
61 chief law enforcement official of the county or city not within a county may charge the person
62 changing their registration a fee of five dollars for each change made after the initial registration.

63 6. Effective August 28, 2006, any person currently on the sexual offender registry for
64 being convicted of, found guilty of, or pleading guilty or nolo contendere to committing
65 felonious restraint when the victim was a child and he or she was the parent or guardian of the
66 child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping
67 when the victim was a child and he or she was the parent or guardian of the child shall be
68 removed from the registry. However, such person shall remain on the sexual offender registry
69 for any other offense for which he or she is required to register under sections 589.400 to
70 589.425.

71 7. Effective August 28, 2006, any person currently on the sexual offender registry for
72 having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to
73 promoting prostitution in the second degree, promoting prostitution in the third degree, public
74 display of explicit sexual material, statutory rape in the second degree, and no physical force or
75 threat of physical force was used in the commission of the crime, may file a petition in the civil
76 division of the circuit court in the county in which the offender was convicted or found guilty
77 of or pled guilty or nolo contendere to the offense or offenses for the removal of his or her name
78 from the sexual offender registry after ten years have passed from the date he or she was required
79 to register.

80 8. Effective August 28, 2006, any person on the sexual offender registry for having been
81 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included
82 under subsection 1 of this section may file a petition after two years have passed from the date
83 the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or
84 offenses in the civil division of the circuit court in the county in which the offender was
85 convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for
86 removal of his or her name from the registry if such person was nineteen years of age or younger

87 and the victim was thirteen years of age or older at the time of the offense and no physical force
88 or threat of physical force was used in the commission of the offense.

89 9. (1) The court may grant such relief under subsection 7 or 8 of this section if such
90 person demonstrates to the court that he or she has complied with the provisions of this section
91 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit
92 court in which the petition is filed must be given notice, by the person seeking removal from the
93 registry, of the petition to present evidence in opposition to the requested relief or may otherwise
94 demonstrate the reasons why the petition should be denied. Failure of the person seeking
95 removal from the registry to notify the prosecuting attorney of the petition shall result in an
96 automatic denial of such person's petition. If the prosecuting attorney is notified of the petition
97 he or she shall make reasonable efforts to notify the victim of the crime for which the person was
98 required to register of the petition and the dates and times of any hearings or other proceedings
99 in connection with that petition.

100 (2) If the petition is denied, such person shall wait at least twelve months before
101 petitioning the court again. If the court finds that the petitioner is entitled to relief, which
102 removes such person's name from the registry, a certified copy of the written findings or order
103 shall be forwarded by the court to the chief law enforcement official having jurisdiction over the
104 offender and to the Missouri state highway patrol in order to have such person's name removed
105 from the registry.

106 10. Any nonresident worker or nonresident student shall register for the duration of such
107 person's employment or attendance at any school of higher education and is not entitled to relief
108 under the provisions of subsection 9 of this section. Any registered offender from another state
109 who has a temporary residence in this state and resides more than fourteen days in a
110 twelve-month period shall register for the duration of such person's temporary residency and is
111 not entitled to the provisions of subsection 9 of this section.

112 11. Any person whose name is removed from the sexual offender registry under
113 subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements
114 of sections 589.400 to 589.425, unless such person is required to register for committing another
115 offense after being removed from the registry.

116 **12. Any individual who is required to be registered under this section and who**
117 **possesses a driver's license or nondriver's license issued under chapter 302, RSMo, shall,**
118 **as a condition of probation or parole obtain such driver's license or nondriver's license**
119 **with a unique code or identifier as required in section 302.181, RSMo.**

589.417. 1. Except for the specific information listed in subsection 2 of this section, the
2 complete statements, photographs and fingerprints required by sections 589.400 to 589.425 shall
3 not be subject to the provisions of chapter 610, RSMo, and are not public records as defined in

4 section 610.010, RSMo, and shall be available only to courts, prosecutors and law enforcement
5 agencies.

6 2. Notwithstanding any provision of law to the contrary, the chief law enforcement
7 official of the county shall maintain, for all offenders registered in such county, a complete list
8 of the names, addresses and crimes for which such offenders are registered. Any person may
9 request such list from the chief law enforcement official of the county.

10 **3. Notwithstanding any other provision of law, the Missouri state highway patrol**
11 **may provide a list which includes the full name, address, and Social Security number of**
12 **the registered sex offenders to the department of revenue.**

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