

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Committee Substitute for Senate Bill No. 279, Page 1, Section A, Line 2, by
2 inserting immediately after said section and line the following:

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

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

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

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

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

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

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

29 (4) Any document required to be retained under federal motor carrier regulations in Title
30 49, Code of Federal Regulations, including but not limited to documents required by federal law for
31 the issuance of a commercial driver's license and a commercial driver instruction permit; [and]

32 (5) Any document required to be retained under section 302.183 for applicants who request
33 a REAL ID compliant driver's license or identification card; and

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

Action Taken _____ Date _____

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

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

13 302.183. 1. Notwithstanding any provision of this chapter that requires an applicant to
14 provide reasonable proof of residence for issuance or renewal of a noncommercial driver's license,
15 noncommercial instruction permit, or a nondriver's license, an applicant shall not have his or her
16 privacy rights violated in order to obtain or renew a Missouri noncommercial driver's license,
17 noncommercial instruction permit, or a nondriver's license.

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

29 3. Subject to the provisions of this section, the department of revenue shall [not] amend
30 procedures for applying for a driver's license or identification card in order to comply with [the
31 goals or standards of] the federal REAL ID Act of 2005, and any rules or regulations promulgated
32 under the authority granted in such act, [or any requirements adopted by the American Association
33 of Motor Vehicle Administrators for furtherance of the act] unless such action conflicts with
34 Missouri law.

35 4. The department of revenue shall issue driver's licenses or identification cards that are
36 compliant with the federal REAL ID Act of 2005, as amended, to all applicants for driver's licenses
37 or identification cards unless an applicant requests a driver's license or identification card that is not
38 REAL ID compliant. Upon initial application for a driver's license or identification card, the
39 department of revenue shall inform applicants of the option of being issued a REAL ID compliant
40 driver's license or identification card or a driver's license or identification card that is not compliant
41 with REAL ID. The department shall inform all applicants:

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

43 (a) It is valid for official state purposes and for official federal purposes as outlined in the
44 federal REAL ID Act of 2005, as amended, such as commercial domestic air travel and seeking
45 access to military bases and most federal facilities;

46 (b) Paper or electronic copies of source documents will be retained by the department and
47 destroyed after the minimum time required for retention for compliance with the federal REAL ID
48 Act of 2005; and

1 (c) Any other information the department deems necessary to inform the applicant about the
2 driver's license or identification under the REAL ID Act;

3 (2) With regard to a driver's license or identification that is not compliant with the REAL ID
4 Act:

5 (a) It is valid for official state purposes, but it is presumed not to be valid for official federal
6 purposes as outlined in the federal REAL ID Act of 2005, as amended, such as domestic air travel
7 and seeking access to military bases and most federal facilities;

8 (b) Source documents will be verified but no paper or electronic copies of such documents
9 will be retained by the department unless permitted under section 302.065; and

10 (c) Any other information the department deems necessary to inform the applicant about the
11 driver's license or identification.

12 5. Once the department of revenue is so notified by the federal department of homeland
13 security that the department of revenue is able to issue driver's licenses or identification cards that
14 comply with the federal REAL ID Act of 2005, as amended, the department shall give notice of the
15 same to the speaker of the house of representatives, the president pro tempore of the senate, and the
16 revisor of statutes. The department of revenue shall then issue driver's licenses and identifications
17 in accordance with subsection 4 of this section.

18 6. [Any biometric data previously collected, obtained, or retained in connection with motor
19 vehicle registration or operation, the issuance or renewal of driver's licenses, or the issuance or
20 renewal of any identification cards by any department or agency of the state charged with those
21 activities shall be retrieved and deleted from all databases.] The department of revenue shall not
22 use, collect, obtain, share, or retain biometric data, nor shall the department use biometric
23 technology to produce a driver's license, nondriver's license, or identification card, or to uniquely
24 identify licensees or license applicants. This subsection shall not apply to digital images or license
25 signatures required for the issuance of driver's licenses, nondriver's licenses, or identification cards.
26 This subsection also shall not apply to biometric data collected from employees of the department,
27 employees of the office of administration who provide information technology support to the
28 department, contracted license offices, and contracted manufacturers engaged in the production,
29 processing, or manufacture of driver's licenses or identification cards in positions that require a
30 background check in order to be compliant with the federal REAL ID Act. Any such biometric data
31 or source documents collected or retained as necessary to carry out subsections 3 and 4 for the sole
32 purpose of issuing a REAL ID compliant driver's license or identification to a person who has
33 requested such license or identification shall be retained only for purposes of complying with the
34 REAL ID Act and only for so long as minimally required for compliance with the REAL ID Act.
35 For purposes of this section, "biometric data" includes, but is not limited to:

36 (1) Facial feature pattern characteristics;

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

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

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

41 (5) Fingerprint, palm prints, hand geometry, measuring of any and all characteristics of
42 biometric information, including shape and length of fingertips or recording ridge pattern or
43 fingertip characteristics;

44 (6) Eye spacing;

45 (7) Characteristic gait or walk;

46 (8) DNA;

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

1 [5.] 7. The department of revenue may not implement a radio frequency identification
2 (RFID) chip or tag in a driver's license or identification card requested by an applicant under
3 subsection 4 of this section.

4 8. No citizen of this state shall have his or her privacy compromised by the state or agents
5 of the state. The state shall within reason protect the sovereignty of the citizens the state is entrusted
6 to protect.

7 9. Any person, department, or department employee authorized to have access to
8 information obtained under this section who unlawfully and knowingly discloses such information
9 in violation of this section or who uses such information in a manner and for a purpose in violation
10 of this section is guilty of a class E felony starting January 1, 2018, unless the person or employee
11 acted under direction of a supervisor, in which case the supervisor shall be guilty of the class E
12 felony.

13 10. Neither the sovereign nor the official immunity doctrines shall apply to a person,
14 department, or department employee authorized to have information obtained under this section in
15 instances when such information is disclosed to an unauthorized party. If the department is
16 responsible in whole or in part for such information being unlawfully and knowingly disclosed to an
17 unauthorized party, then the person whose information was disclosed shall have a cause of action to
18 recover damages, attorney fees, and court costs. If it is determined by a court of competent
19 jurisdiction that such disclosure was done intentionally and maliciously, then the person shall be
20 entitled to punitive damages in addition to the damages above. None of the foregoing damages shall
21 be paid out from the state legal expense fund but shall be paid by the person or employee that
22 violated subsection 9."; and

23
24 Further amend said bill, Page 2, Section 302.188, Line 34, by inserting immediately after said
25 section and line the following:

26
27 "Section B. Because the freedom of travel and ability to access federal facilities is of
28 paramount importance for Missouri citizens, section A of this act is deemed necessary for the
29 immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be
30 an emergency act within the meaning of the constitution, and section A of this act shall be in full
31 force and effect upon its passage and approval.

32 Section C. Notwithstanding the provisions of section 1.140 to the contrary, the provisions of
33 this act shall be nonseverable, and if any provision is for any reason held to be invalid, such
34 decision shall invalidate all of the remaining provisions of this section. If any provision of the
35 REAL ID Act of 2005 is held to be facially unconstitutional, the provisions of this act shall expire.";
36 and

37
38 Further amend said bill by amending the title, enacting clause, and intersectional references
39 accordingly.