

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Bill No. 368, Page 8, Section 301.560, Line 255, by inserting after said section and
2 line the following:

3
4 "302.170. 1. As used in this section, the following terms shall mean:

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

6 (a) Facial feature pattern characteristics;

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

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

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

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

14 (f) Eye spacing;

15 (g) Characteristic gait or walk;

16 (h) DNA;

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

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

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

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

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

Action Taken _____ Date _____

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

3 (2) Test score documents issued by state highway patrol driver examiners and Missouri
4 commercial third-party tester examiners;

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

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

11 (5) Documents submitted by a commercial driver's license or commercial driver's
12 instruction permit applicant who is a Missouri resident and is ~~[active-duty military or a veteran, as~~
13 ~~"veteran" is defined in 38 U.S.C. Section 101]~~ a qualified current or former military service
14 member, which allows for waiver of the commercial driver's license knowledge test, skills test, or
15 both; and

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

19 4. (1) To the extent not prohibited under subsection 13 of this section, the department of
20 revenue shall amend procedures for applying for a driver's license or identification card in order to
21 comply with the goals or standards of the federal REAL ID Act of 2005, any rules or regulations
22 promulgated under the authority granted in such Act, or any requirements adopted by the American
23 Association of Motor Vehicle Administrators for furtherance of the Act, unless such action conflicts
24 with Missouri law.

25 (2) The department of revenue shall issue driver's licenses or identification cards that are
26 compliant with the federal REAL ID Act of 2005, as amended, to all applicants for driver's licenses
27 or identification cards unless an applicant requests a driver's license or identification card that is not
28 REAL ID compliant. Except as provided in subsection 3 of this section and as required to carry out
29 the provisions of this subsection, the department of revenue shall not retain the source documents of
30 individuals applying for driver's licenses or identification cards not compliant with REAL ID. Upon
31 initial application for a driver's license or identification card, the department shall inform applicants
32 of the option of being issued a REAL ID compliant driver's license or identification card or a
33 driver's license or identification card that is not compliant with REAL ID. The department shall
34 inform all applicants:

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

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

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

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

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

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

48 a. Such card is valid for official state purposes, but it is not valid for official federal
49 purposes as outlined in the federal REAL ID Act of 2005, as amended, such as domestic air travel

1 and seeking access to military bases and most federal facilities;

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

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

7 5. The department of revenue shall not use, collect, obtain, share, or retain biometric data
8 nor shall the department use biometric technology to produce a driver's license or nondriver's license
9 or to uniquely identify licensees or license applicants. This subsection shall not apply to digital
10 images nor licensee signatures required for the issuance of driver's licenses and nondriver's licenses
11 or to biometric data collected from employees of the department of revenue, employees of the office
12 of administration who provide information technology support to the department of revenue,
13 contracted license offices, and contracted manufacturers engaged in the production, processing, or
14 manufacture of driver's licenses or identification cards in positions which require a background
15 check in order to be compliant with the federal REAL ID Act or any rules or regulations
16 promulgated under the authority of such Act. Except as otherwise provided by law, applicants'
17 source documents and Social Security numbers shall not be stored in any database accessible by any
18 other state or the federal government. Such database shall contain only the data fields included on
19 driver's licenses and nondriver identification cards compliant with the federal REAL ID Act, and the
20 driving records of the individuals holding such driver's licenses and nondriver identification cards.

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

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

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

46 9. Any person harmed or damaged by any violation of this section may bring a civil action
47 for damages, including noneconomic and punitive damages, as well as injunctive relief, in the
48 circuit court where that person resided at the time of the violation or in the circuit court of Cole
49 County to recover such damages from the department of revenue and any persons participating in

1 such violation. Sovereign immunity shall not be available as a defense for the department of
 2 revenue in such an action. In the event the plaintiff prevails on any count of his or her claim, the
 3 plaintiff shall be entitled to recover reasonable attorney fees from the defendants.

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

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

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

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

29 14. If the federal REAL ID Act of 2005 is modified or repealed such that driver's licenses
 30 and identification cards issued by this state that are not compliant with the federal REAL ID Act of
 31 2005 are once again sufficient for federal identification purposes, the department shall not issue a
 32 driver's license or identification card that complies with the federal REAL ID Act of 2005 and shall
 33 securely destroy, within thirty days, any source documents retained by the department for the
 34 purpose of compliance with such Act.

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

36 302.720. 1. Except when operating under an instruction permit as described in this section,
 37 no person may drive a commercial motor vehicle unless the person has been issued a commercial
 38 driver's license with applicable endorsements valid for the type of vehicle being operated as
 39 specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the
 40 holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of
 41 a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the
 42 individual, or reasonably near the individual in the case of buses, for the purpose of giving
 43 instruction in driving the commercial motor vehicle. No person may be issued a commercial
 44 driver's instruction permit until he or she has passed written tests which comply with the minimum
 45 federal standards. A commercial driver's instruction permit shall be nonrenewable and valid for the
 46 vehicle being operated for a period of not more than ~~[six months]~~ one year, and shall not be issued
 47 until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the
 48 driving test. ~~[A permit holder, unless otherwise disqualified, may be granted one six-month renewal~~
 49 ~~within a one-year period.]~~ The fee for such permit or renewal shall be ~~[five]~~ ten dollars. ~~[In the~~

~~alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.] The fee for a duplicate commercial driver's instruction permit shall be five dollars.~~

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Beginning January 1, 2020, all applicants for a commercial driver's license shall complete any entry-level driver training program established and required under 49 CFR 380.609. All applicants for a commercial driver's license shall have maintained the appropriate class of commercial driver's instruction permit issued by this state or any other state for a minimum of fourteen calendar days prior to the date of taking the skills test. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test, except the examination fee shall be waived for applicants seventy years of age or older renewing a license with a school bus endorsement. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations. The written test shall only be administered in the English language. No translators shall be allowed for applicants taking the test.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.

(3) Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to community colleges established under chapter 178 or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the Secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.

(5) The director shall have the authority to waive the driving skills test and written tests for any qualified current or former military service member applicant for a commercial driver's instruction permit or a commercial driver's license who is currently licensed at the time of application for a commercial driver's instruction permit or license. The director shall impose conditions and limitations and require certification and evidence to restrict the applicants from whom the department may accept the alternative requirements for the skills [test] and written tests described in federal ~~[regulation]~~ regulations 49 CFR 383.71 and 49 CFR 383.77. ~~[An applicant must certify that, during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:~~

- ~~_____ (a) The applicant has not had more than one license;~~
- ~~_____ (b) The applicant has not had any license suspended, revoked, or cancelled;~~
- ~~_____ (c) The applicant has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in this chapter or federal rule 49 CFR 383.51(b);~~
- ~~_____ (d) The applicant has not had more than one conviction for any type of motor vehicle for serious traffic violations;~~
- ~~_____ (e) The applicant has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, but not including any parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault;~~
- ~~_____ (f) The applicant has been regularly employed within the last ninety days in a military position requiring operation of a commercial motor vehicle and has operated the vehicle for at least sixty days during the two years immediately preceding application for a commercial driver's license. The vehicle must be representative of the commercial motor vehicle the driver applicant operates or expects to operate;~~
- ~~_____ (g) The applicant, if on active duty, must provide a notarized affidavit signed by a commanding officer as proof of driving experience as indicated in paragraph (f) of this subdivision;~~
- ~~_____ (h) The applicant, if honorably discharged from military service, must provide a form-DD214 or other proof of military occupational specialty;~~
- ~~_____ (i) The applicant must meet all federal and state qualifications to operate a commercial vehicle[;], and~~

[(+)] the applicant will be required to complete all applicable knowledge tests, except when an applicant provides proof of approved military training for waiving the knowledge and skills tests as specified in subdivision (5) of subsection 2 of this section.

3. A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or cancelled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536.

5. Notwithstanding the provisions of this section or any other law to the contrary, beginning August 28, 2008, the director of the department of revenue shall certify as a third-party tester any municipality that owns, leases, or maintains its own fleet that requires certain employees as a condition of employment to hold a valid commercial driver's license; and that administered in-house testing to such employees prior to August 28, 2006.

302.768. 1. Any applicant for a commercial driver's license or commercial driver's instruction permit shall comply with the Federal Motor Carrier Safety Administration application requirements of 49 CFR Part 383.71 by certifying to one of the following applicable statements relating to federal and state driver qualification rules:

(1) Nonexcepted interstate: certifies the applicant is a driver operating or expecting to operate in interstate or foreign commerce, or is otherwise subject to and meets requirements of 49 CFR Part 391 and is required to obtain a medical examiner's certificate as defined in 49 CFR Part 391.45;

(2) Excepted interstate: certifies the applicant is a driver operating or expecting to operate entirely in interstate commerce that is not subject to Part 391 and is subject to Missouri driver qualifications and not required to obtain a medical examiner's certificate;

(3) Nonexcepted intrastate: certifies the applicant is a driver operating only in intrastate commerce and is subject to Missouri driver qualifications;

(4) Excepted intrastate: certifies the applicant operates or expects to operate only in intrastate commerce, and engaging only in operations excepted from all parts of the Missouri driver qualification requirements.

2. Any applicant who cannot meet certification requirements under one of the categories defined in subsection 1 of this section shall be denied issuance of a commercial driver's license or commercial driver's instruction permit.

3. An applicant certifying to operation in nonexcepted interstate or nonexcepted intrastate commerce shall provide the state with an original or copy of a current medical examiner's certificate or a medical examiner's certificate accompanied by a medical variance or waiver, until such time as the medical examiner's certificate information is received electronically through the Federal Motor Carrier Safety Administration approved verification system. The state shall retain the ~~[original or copy of the]~~ documentation of physical qualification for a minimum of three years beyond the date the certificate was issued.

4. Applicants certifying to operation in nonexcepted interstate commerce or nonexcepted intrastate commerce shall provide ~~[an]~~ updated medical certificate or variance ~~[documents]~~ information to maintain a certified status during the term of the commercial driver's license or commercial driver's instruction permit in order to retain commercial privileges.

5. The director shall post the medical examiner's certificate of information, medical variance if applicable, the applicant's self-certification and certification status to the Missouri driver record within ten calendar days and such information will become part of the CDLIS driver record.

6. Applicants certifying to operation in nonexcepted interstate commerce or nonexcepted intrastate commerce who fail to provide or maintain a current medical examiner's certificate, or if the state has received notice of a medical variance or waiver expiring or being rescinded, the state shall, within ten calendar days, update the driver's medical certification status to "not certified". The state shall notify the driver of the change in certification status and require the driver to annually comply with requirements for a commercial driver's license downgrade within sixty days of the expiration of the applicant certification.

7. The department of revenue may, by rule, establish the cost and criteria for submission of updated medical certification status information as required under this section.

8. Any person who falsifies any information in an application for or update of medical certification status information for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be cancelled for a period of one year after the director discovers such falsification.

9. The director may promulgate rules and regulations necessary to administer and enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is

1 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
2 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
3 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
4 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
5 August 28, 2012, shall be invalid and void."; and

6
7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.