

FIRST REGULAR SESSION

# HOUSE BILL NO. 792

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIESHEIMER.

1674H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal sections 302.170, 302.720, and 302.768, RSMo, and to enact in lieu thereof three new sections relating to commercial driver's licenses.

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

Section A. Sections 302.170, 302.720, and 302.768, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 302.170, 302.720, and 302.768, to read as follows:

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

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

(a) Facial feature pattern characteristics;

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

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

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

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

(f) Eye spacing;

(g) Characteristic gait or walk;

(h) DNA;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

72           b. Electronic copies of source documents will be retained by the department and  
73 destroyed after the minimum time required for digital retention by the federal REAL ID Act of  
74 2005, as amended;

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

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

79           (b) With regard to a driver's license or identification card that is not compliant with the  
80 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 retained  
85 by the department unless permitted under subsection 3 of this section, except as necessary to  
86 process a request by a license or card holder or applicant;

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

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

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

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

121 8. Other than to process a request by a license or card holder or applicant, no person shall  
122 access, distribute, or allow access to or distribution of any written, digital, or electronic data

collected or retained under this section without the express permission of the applicant or a court order, except that such information may be shared with a law enforcement agency, judge, prosecuting attorney, or officer of the court, or with another state for the limited purposes set out in section 302.600 or for conducting driver history checks in compliance with the Motor Carrier Safety Improvement Act, 49 U.S.C. Section 31309. A first violation of this subsection shall be a class A misdemeanor. A second violation of this subsection shall be a class E felony. A third or subsequent violation of this subsection shall be a class D felony.

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

10. The department of revenue may promulgate rules necessary to implement the provisions of 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 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2017, shall be invalid and void.

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

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

13. Notwithstanding any provision of law to the contrary, the department of revenue shall not amend procedures for applying for a driver's license or identification card, nor promulgate any rule or regulation, for purposes of complying with modifications made to the federal REAL ID Act of 2005 after August 28, 2017, imposing additional requirements on

159 applications, document retention, or issuance of compliant licenses or cards, including any rules  
160 or regulations promulgated under the authority granted under the federal REAL ID Act of 2005,  
161 as amended, or any requirements adopted by the American Association of Motor Vehicle  
162 Administrators for furtherance thereof.

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

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

302.720. 1. Except when operating under an instruction permit as described in this  
2 section, no person may drive a commercial motor vehicle unless the person has been issued a  
3 commercial driver's license with applicable endorsements valid for the type of vehicle being  
4 operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit  
5 shall allow the holder of a valid license to operate a commercial motor vehicle when  
6 accompanied by the holder of a commercial driver's license valid for the vehicle being operated  
7 and who occupies a seat beside the individual, or reasonably near the individual in the case of  
8 buses, for the purpose of giving instruction in driving the commercial motor vehicle. No person  
9 may be issued a commercial driver's instruction permit until he or she has passed written tests  
10 which comply with the minimum federal standards. A commercial driver's instruction permit  
11 shall be **nonrenewable and** valid for the vehicle being operated for a period of not more than  
12 ~~[six months]~~ **one year**, and shall not be issued until the permit holder has met all other  
13 requirements of sections 302.700 to 302.780, except for the driving test. ~~[A permit holder,~~  
14 ~~unless otherwise disqualified, may be granted one six-month renewal within a one-year period.]~~  
15 The fee for such permit or renewal shall be ~~[five]~~ **ten** dollars. ~~[In the alternative, a commercial~~  
16 ~~driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid~~  
17 ~~driver's license to operate a commercial motor vehicle if the applicant has completed all other~~  
18 ~~requirements except the driving test. The permit may be renewed for one additional thirty-day~~  
19 ~~period and the fee for the permit and for renewal shall be five dollars.]~~ **The fee for a duplicate**  
20 **commercial driver's instruction permit shall be five dollars.**

21 2. No person may be issued a commercial driver's license until he has passed written and  
22 driving tests for the operation of a commercial motor vehicle which complies with the minimum  
23 federal standards established by the Secretary and has satisfied all other requirements of the  
24 Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any  
25 other requirements imposed by state law. **Beginning January 1, 2020, all applicants for a**

26 **commercial driver's license shall complete any entry-level driver training program**  
27 **established and required under 49 CFR 380.609.** All applicants for a commercial driver's  
28 license shall have maintained the appropriate class of commercial driver's instruction permit  
29 issued by this state or any other state for a minimum of fourteen calendar days prior to the date  
30 of taking the skills test. Applicants for a hazardous materials endorsement must also meet the  
31 requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and  
32 required by regulations promulgated by the Secretary. Nothing contained in this subsection shall  
33 be construed as prohibiting the director from establishing alternate testing formats for those who  
34 are functionally illiterate; provided, however, that any such alternate test must comply with the  
35 minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub.  
36 Law 99-570) as established by the Secretary.

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

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

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

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

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

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



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

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

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

112       5. Notwithstanding the provisions of this section or any other law to the contrary,  
113 beginning August 28, 2008, the director of the department of revenue shall certify as a third-party  
114 tester any municipality that owns, leases, or maintains its own fleet that requires certain  
115 employees as a condition of employment to hold a valid commercial driver's license; and that  
116 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  
2 instruction permit shall comply with the Federal Motor Carrier Safety Administration application  
3 requirements of 49 CFR Part 383.71 by certifying to one of the following applicable statements  
4 relating to federal and state driver qualification rules:

5       (1) Nonexcepted interstate: certifies the applicant is a driver operating or expecting to  
6 operate in interstate or foreign commerce, or is otherwise subject to and meets requirements of  
7 49 CFR Part 391 and is required to obtain a medical examiner's certificate as defined in 49 CFR  
8 Part 391.45;

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

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

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

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

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

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

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

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

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

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

48           9. The director may promulgate rules and regulations necessary to administer and enforce  
49 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
50 created under the authority delegated in this section shall become effective only if it complies  
51 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
52 This section and chapter 536 are nonseverable and if any of the powers vested with the general

53 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and  
54 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
55 any rule proposed or adopted after August 28, 2012, shall be invalid and void.

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