

SECOND REGULAR SESSION

HOUSE BILL NO. 3158

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOYKO.

6653H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 302.063, 302.067, 302.170, and 302.171, RSMo, and to enact in lieu thereof three new sections relating to driver's licenses, with penalty provisions.

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

Section A. Sections 302.063, 302.067, 302.170, and 302.171, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 302.067, 302.170, and
3 302.171, to read as follows:

302.067. 1. Any original or certified copy, if applicable, of a document presented by
2 an applicant under this chapter and its accompanying regulations as proof of lawful presence
3 or citizenship to the department of revenue to apply for a driver's license, nondriver's license
4 or instruction permit shall not be required to be presented by the applicant for any subsequent
5 new, renewal, or duplicate application, except:

6 (1) Documents demonstrating lawful presence of any applicant who is not a citizen of
7 the United States, including documents demonstrating duration of the person's lawful
8 presence in the United States, may be required to be presented upon each subsequent
9 application;

10 (2) The department may require the documents to be presented if it is reasonably
11 believed by the department that the prior driver's license or nondriver's license was issued as a
12 result of a fraudulent act of the applicant;

13 (3) Applicants applying for or renewing a commercial driver's license or commercial
14 driver's instruction permit; or

15 (4) The department may require an applicant to present such documents
16 demonstrating lawful presence or citizenship specified in this section in order to correct

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.

17 any known or presumed error on the driver's license, nondriver's license, or instruction
18 permit.

19 **2. The provisions of subsection 1 of this section requiring proof of lawful**
20 **presence or citizenship shall not apply to noncommercial driver's licenses that are not**
21 **REAL-ID compliant or to nondriver's licenses or instruction permits that are not**
22 **REAL-ID compliant.**

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

- 2 (1) "Biometric data" shall include, but not be limited to, the following:
- 3 (a) Voice data used for comparing live speech with a previously created speech model
4 of a person's voice;
- 5 (b) Iris recognition data containing color or texture patterns or codes;
- 6 (c) Retinal scans, reading through the pupil to measure blood vessels lining the retina;
- 7 (d) Fingerprint, palm prints, hand geometry, measure of any and all characteristics of
8 biometric information, including shape and length of fingertips, or recording ridge pattern or
9 fingertip characteristics;
- 10 (e) Characteristic gait or walk;
- 11 (f) DNA;
- 12 (g) Keystroke dynamic, measuring pressure applied to key pads or other digital
13 receiving devices;
- 14 (2) "Commercial purposes" shall not include data used or compiled solely to be used
15 for, or obtained or compiled solely for purposes expressly allowed under Missouri law or the
16 federal Drivers Privacy Protection Act;
- 17 (3) "Source documents", original or certified copies, where applicable, of documents
18 presented by an applicant as required under 6 CFR Part 37 to the department of revenue to
19 apply for a driver's license or nondriver's license. Source documents shall also include any
20 documents required for the issuance of driver's licenses or nondriver's licenses by the
21 department of revenue under the provisions of this chapter or accompanying regulations.
- 22 2. Except as provided in subsection 3 of this section and as required to carry out the
23 provisions of subsection 4 of this section, the department of revenue shall not retain copies, in
24 any format, of source documents presented by individuals applying for or holding driver's
25 licenses or nondriver's licenses or use technology to capture digital images of source
26 documents so that the images are capable of being retained in electronic storage in a
27 transferable format.
- 28 3. The provisions of this section shall not apply to:
- 29 (1) Original application forms, which may be retained but not scanned except as
30 provided in this section;

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

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

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

40 (5) Documents submitted by a commercial driver's license or commercial driver's
41 instruction permit applicant who is a Missouri resident and is a qualified current or former
42 military service member which allow for waiver of the commercial driver's license
43 knowledge test, skills test, or both; and

44 (6) Any other document at the request of and for the convenience of the applicant.

45 4. (1) To the extent not prohibited under subsection 13 of this section, the department
46 of revenue shall amend procedures for applying for a driver's license or identification card in
47 order to comply with the goals or standards of the federal REAL ID Act of 2005, any rules or
48 regulations promulgated under the authority granted in such Act, or any requirements adopted
49 by the American Association of Motor Vehicle Administrators for furtherance of the Act,
50 unless such action conflicts with Missouri law.

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

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

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

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

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

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

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

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

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

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

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

100 6. Notwithstanding any provision of this chapter that requires an applicant to provide
101 reasonable proof of lawful presence for issuance or renewal of a noncommercial driver's
102 license, noncommercial instruction permit, or a nondriver's license, an applicant shall not

103 have his or her privacy rights violated in order to obtain or renew a Missouri noncommercial
104 driver's license, noncommercial instruction permit, or a nondriver's license.

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

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

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

137 10. The department of revenue may promulgate rules necessary to implement the
138 provisions of this section. Any rule or portion of a rule, as that term is defined in section
139 536.010, that is created under the authority delegated in this section shall become effective

140 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
141 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
142 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
143 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
144 of rulemaking authority and any rule proposed or adopted after August 28, 2017, shall be
145 invalid and void.

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

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

155 13. Notwithstanding any provision of law to the contrary, the department of revenue
156 shall not amend procedures for applying for a driver's license or identification card, nor
157 promulgate any rule or regulation, for purposes of complying with modifications made to the
158 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
160 rules or regulations promulgated under the authority granted under the federal REAL ID Act
161 of 2005, as amended, or any requirements adopted by the American Association of Motor
162 Vehicle Administrators for furtherance thereof.

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

302.171. 1. **(1) Except as provided under subdivision (2) of this subsection,** the
2 director shall verify that an applicant for a driver's license is a Missouri resident or national of
3 the United States or a noncitizen with a lawful immigration status, and a Missouri resident
4 before accepting the application. The director shall not issue a driver's license for a period
5 that exceeds the duration of an applicant's lawful immigration status in the United States. The
6 director may establish procedures to verify the Missouri residency or United States
7 naturalization or lawful immigration status and Missouri residency of the applicant and
8 establish the duration of any driver's license issued under this section. An application for a

9 license shall be made upon an approved form furnished by the director. Every application
10 shall state the full name, Social Security number, age, height, weight, color of eyes, sex,
11 residence, mailing address of the applicant, and the classification for which the applicant has
12 been licensed, and, if so, when and by what state, and whether or not such license has ever
13 been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date
14 and reason for such suspension, revocation or disqualification and whether the applicant is
15 making a one or more dollar donation to promote an organ donation program as prescribed in
16 subsection 2 of this section, to promote a blindness education, screening and treatment
17 program as prescribed in subsection 3 of this section, or the Missouri medal of honor
18 recipients fund prescribed in subsection 4 of this section. A driver's license, nondriver's
19 license, or instruction permit issued under this chapter shall contain the applicant's legal name
20 as it appears on a birth certificate or as legally changed through marriage or court order. No
21 name change by common usage based on common law shall be permitted. The application
22 shall also contain such information as the director may require to enable the director to
23 determine the applicant's qualification for driving a motor vehicle; and shall state whether or
24 not the applicant has been convicted in this or any other state for violating the laws of this or
25 any other state or any ordinance of any municipality, relating to driving without a license,
26 careless driving, or driving while intoxicated, or failing to stop after an accident and
27 disclosing the applicant's identity, or driving a motor vehicle without the owner's consent.
28 The application shall contain a certification by the applicant as to the truth of the facts stated
29 therein. Every person who applies for a license to operate a motor vehicle who is less than
30 twenty-one years of age shall be provided with educational materials relating to the hazards of
31 driving while intoxicated, including information on penalties imposed by law for violation of
32 the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is
33 less than eighteen years of age, the applicant must comply with all requirements for the
34 issuance of an intermediate driver's license pursuant to section 302.178. For persons
35 mobilized and deployed with the United States Armed Forces, an application under this
36 subsection shall be considered satisfactory by the department of revenue if it is signed by a
37 person who holds general power of attorney executed by the person deployed, provided the
38 applicant meets all other requirements set by the director.

39 **(2) The provisions of subdivision (1) of this subsection requiring proof of lawful**
40 **presence or citizenship shall not apply to noncommercial driver's licenses that are not**
41 **REAL-ID compliant or to nondriver's licenses or instruction permits that are not**
42 **REAL-ID compliant.**

43 2. An applicant for a license may make a donation of an amount not less than one
44 dollar to promote an organ donor program. The director of revenue shall collect the donations
45 and deposit all such donations in the state treasury to the credit of the organ donor program

46 fund established in sections 194.297 to 194.304. Moneys in the organ donor program fund
47 shall be used solely for the purposes established in sections 194.297 to 194.304 except that
48 the department of revenue shall retain no more than one percent for its administrative costs.
49 The donation prescribed in this subsection is voluntary and may be refused by the applicant
50 for the license at the time of issuance or renewal of the license. The director shall make
51 available an informational booklet or other informational sources on the importance of organ
52 and tissue donations to applicants for licensure as designed by the organ donation advisory
53 committee established in sections 194.297 to 194.304. The director shall inquire of each
54 applicant at the time the licensee presents the completed application to the director whether
55 the applicant is interested in making the one or more dollar donation prescribed in this
56 subsection and whether the applicant is interested in inclusion in the organ donor registry and
57 shall also specifically inform the licensee of the ability to consent to organ donation by
58 placing a donor symbol sticker authorized and issued by the department of health and senior
59 services on the back of his or her driver's license or identification card as prescribed by
60 subdivision (1) of subsection 1 of section 194.225. A symbol may be placed on the front of
61 the license or identification card indicating the applicant's desire to be listed in the registry at
62 the applicant's request at the time of his or her application for a driver's license or
63 identification card, or the applicant may instead request an organ donor sticker from the
64 department of health and senior services by application on the department of health and senior
65 services' website. Upon receipt of an organ donor sticker sent by the department of health and
66 senior services, the applicant shall place the sticker on the back of his or her driver's license or
67 identification card to indicate that he or she has made an anatomical gift. The director shall
68 notify the department of health and senior services of information obtained from applicants
69 who indicate to the director that they are interested in registry participation, and the
70 department of health and senior services shall enter the complete name, address, date of birth,
71 race, gender and a unique personal identifier in the registry established in subsection 1 of
72 section 194.304.

73 3. An applicant for a license may make a donation of one dollar to promote a
74 blindness education, screening and treatment program. The director of revenue shall collect
75 the donations and deposit all such donations in the state treasury to the credit of the blindness
76 education, screening and treatment program fund established in section 209.015. Moneys in
77 the blindness education, screening and treatment program fund shall be used solely for the
78 purposes established in section 209.015; except that the department of revenue shall retain no
79 more than one percent for its administrative costs. The donation prescribed in this subsection
80 is voluntary and may be refused by the applicant for the license at the time of issuance or
81 renewal of the license. The director shall inquire of each applicant at the time the licensee

82 presents the completed application to the director whether the applicant is interested in
83 making the one dollar donation prescribed in this subsection.

84 4. An applicant for registration may make a donation of one dollar to the Missouri
85 medal of honor recipients fund. The director of revenue shall collect the donations and
86 deposit all such donations in the state treasury to the credit of the Missouri medal of honor
87 recipients fund as established in section 226.925. Moneys in the medal of honor recipients
88 fund shall be used solely for the purposes established in section 226.925, except that the
89 department of revenue shall retain no more than one percent for its administrative costs. The
90 donation prescribed in this subsection is voluntary and may be refused by the applicant for
91 registration at the time of issuance or renewal. The director shall inquire of each applicant at
92 the time the applicant presents the completed application to the director whether the applicant
93 is interested in making the one dollar donation prescribed in this subsection.

94 5. Beginning July 1, 2005, the director shall deny the driving privilege of any person
95 who commits fraud or deception during the examination process or who makes application
96 for an instruction permit, driver's license, or nondriver's license which contains or is
97 substantiated with false or fraudulent information or documentation, or who knowingly
98 conceals a material fact or otherwise commits a fraud in any such application. The period of
99 denial shall be one year from the effective date of the denial notice sent by the director. The
100 denial shall become effective ten days after the date the denial notice is mailed to the person.
101 The notice shall be mailed to the person at the last known address shown on the person's
102 driving record. The notice shall be deemed received three days after mailing unless returned
103 by the postal authorities. No such individual shall reapply for a driver's examination,
104 instruction permit, driver's license, or nondriver's license until the period of denial is
105 completed. No individual who is denied the driving privilege under this section shall be
106 eligible for a limited driving privilege issued under section 302.309.

107 6. All appeals of denials under this section shall be made as required by section
108 302.311.

109 7. The period of limitation for criminal prosecution under this section shall be
110 extended under subdivision (1) of subsection 3 of section 556.036.

111 8. The director may promulgate rules and regulations necessary to administer and
112 enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this
113 section shall become effective unless it has been promulgated pursuant to chapter 536.

114 9. Notwithstanding any provision of this chapter that requires an applicant to provide
115 proof of Missouri residency for renewal of a noncommercial driver's license, noncommercial
116 instruction permit, or nondriver's license, an applicant who is sixty-five years and older and
117 who was previously issued a Missouri noncommercial driver's license, noncommercial

118 instruction permit, or Missouri nondriver's license is exempt from showing proof of Missouri
119 residency.

120 10. Notwithstanding any provision of this chapter, for the renewal of a
121 noncommercial driver's license, noncommercial instruction permit, or nondriver's license, a
122 photocopy of an applicant's United States birth certificate along with another form of
123 identification approved by the department of revenue, including, but not limited to, United
124 States military identification or United States military discharge papers, shall constitute
125 sufficient proof of Missouri citizenship.

126 11. Notwithstanding any other provision of this chapter, if an applicant does not meet
127 the requirements of subsection 9 of this section and does not have the required documents to
128 prove Missouri residency, United States naturalization, or lawful immigration status, the
129 department may issue a one-year driver's license renewal. This one-time renewal shall only
130 be issued to an applicant who previously has held a Missouri noncommercial driver's license,
131 noncommercial instruction permit, or nondriver's license for a period of fifteen years or more
132 and who does not have the required documents to prove Missouri residency, United States
133 naturalization, or lawful immigration status. After the expiration of the one-year period, no
134 further renewal shall be provided without the applicant producing proof of Missouri
135 residency, United States naturalization, or lawful immigration status.

136 **12. Notwithstanding any provision of this chapter or any other provision of law**
137 **to the contrary, no information collected under this chapter shall be used for the**
138 **purposes of immigration enforcement.**

2 ~~[302.063. The department of revenue shall not issue any driver's~~
3 ~~license to an illegal alien nor to any person who cannot prove his or her lawful~~
4 ~~presence pursuant to the provisions of this chapter and the regulations~~
5 ~~promulgated thereunder. A driver's license issued to an illegal alien in another~~
6 ~~state shall not be honored by the state of Missouri and the department of~~
7 ~~revenue for any purpose. The state of Missouri hereby declares that granting~~
8 ~~driver's licenses to illegal aliens is repugnant to the public policy of Missouri~~
9 ~~and therefore Missouri shall not extend full faith and credit to out of state~~
10 ~~driver's licenses issued to illegal aliens. As used in this section, the term~~
11 ~~"illegal alien" shall mean an alien who is not lawfully present in the United~~
~~States, according to the terms of 8 U.S.C. Section 1101, et seq.]~~

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