STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1476 By: Murphey

COMMITTEE SUBSTITUTE

An Act relating to driver licenses; amending 47 O.S. 2011, Section 6-110.3, which relates to the issuance, expiration and renewal of driver licenses; directing the Department of Public Safety to include certain exemption provision on driver license and identification card applications; providing certain exemptions to persons who sign exemption form; directing the Department of Public Safety to cease collecting, retaining and disclosing biometric data; providing procedures for storing and collecting facial images; prohibiting retention of facial images; requiring deletion of facial images and biometric data; providing exceptions to photograph retention and collection requirements; providing immunity from liability; adding definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2011, Section 6-110.3, is amended to read as follows:

Section 6-110.3 A. 1. The Legislature finds that the enactment into law by the United States Congress of the federal REAL ID Act of 2005, Public Law Number 109-13, is inimical to the

security and well-being of the people of Oklahoma, will cause approximately Eight Million Dollars ($8,000,000.00) in added expense and inconvenience to our state, and was adopted by the United States Congress in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution.

2. The State of Oklahoma shall not participate in the implementation of the REAL ID Act of 2005. The Department of Public Safety is hereby directed not to implement the provisions of the REAL ID Act of 2005 and to report to the Governor and the Legislature any attempt by agencies or agents of the United States Department of Homeland Security to secure the implementation of the REAL ID Act of 2005 through the operations of that or any other state department.

B. No department or agency of the state charged with motor vehicle registration or operation, the issuance or renewal of driver licenses, or the issuance or renewal of any identification cards shall collect, obtain, or retain any data in connection with activities related to complying with the REAL ID Act of 2005.

C. Any biometric data previously collected, obtained, or retained in connection with motor vehicle registration or operation, the issuance or renewal of driver licenses, or the issuance or renewal of any identification cards by any department or agency of this state charged with those activities shall be retrieved and deleted from any and all databases. The provisions of this

subsection shall not apply to any data collected, obtained or retained for a purpose other than complying with the REAL ID Act of 2005.

D. Beginning November 1, 2013, the Department of Public Safety shall modify the application for the issuance of a Class D driver license or an identification card to contain a statement of exemption. The statement of exemption shall contain the following language:

"BIOMETRIC IDENTIFICATION RELIGIOUS EXEMPTION

Because of my religious beliefs, I object to enrollment in an international biometric identification system including, but not limited to, facial recognition and digital fingerprinting that directly connects my body to identification and personal biometric information sharing."

E. Any applicant who has signed the exemption shall be exempt from supplying biometric data to the Department of Public Safety.

F. 1. A current Class D driver licensee or identification cardholder may make an application for a replacement or renewal of the license or identification card for the purpose of signing the exemption at any time in accordance with applicable laws regarding issuance, renewal or replacement of a Class D driver license or an identification card.

2. Any existing facial image, if present, that is to be used for such issuance shall be modified by the Department to comply with

the photo resolution provisions of this section or shall be permanently deleted from the database of the Department after printing the document.

G. The Department of Public Safety shall cease collecting, retaining or disclosing biometric data, biometric samples or biometric templates from and making biometric comparisons of an applicant who has signed the exemption. The Department shall store facial images of applicants who sign the exemption:

1. In the format where the facial image collected does not exceed an uncompressed photographic resolution where the width of the head is forty-nine (49) pixels or more of resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or more and a maximum image height of one hundred six (106) pixels or more; and

2. In a separate database that is not accessible by any other governmental or nongovernmental entity.

H. The Department of Public Safety shall not retain at any time more than one facial image of an applicant who has signed the exemption. Only the facial image printed on the most current Class D driver license or identification card issued to the applicant shall be retained by the Department. All previously collected images of the applicant shall be permanently and immediately deleted and the collection by the Department of Public Safety of any new facial image of the applicant who has signed the exemption shall

cause any previous facial image to be permanently and immediately deleted.

I. The Department of Public Safety may disclose the facial image of an applicant retained in the database of the Department of Public Safety only to a law enforcement officer, law enforcement agency, the Department of Human Services for purposes of child support enforcement, or to the public for assistance in locating a person of interest or a missing person, provided that access to the facial image is limited to one name, one record and one facial image. Nothing in this section shall be construed as preventing a motor license agent from performing his or her duties as required by law.

J. The provisions of this section shall not be construed to prevent the following:

1. The collection or retention of photographs or fingerprints, including for biometric comparisons, for the purpose of enforcing laws relating to serious traffic offenses including, but not limited to, driving while intoxicated, reckless driving, negligent homicide with the use of a motor vehicle, operating a motor vehicle after being declared a habitual motor vehicle offender, or any other offense for which a physical custody arrest is required;

2. The collection of fingerprints for the Transportation Security Administration for the purpose of performing criminal record checks required under federal regulations governing the

issuance of hazardous materials endorsements on commercial driver licenses and the taking, and retention, of fingerprints for that express purpose;

3. Requesting and receiving motor vehicle and driver license records or from having legal access to information in the possession of the Department by law enforcement agencies, provided that such access and requests for such information are specific to individual records and individual persons; or

4. The administration of the Sex Offenders Registration Act as it applies to the issuance of a driver license or identification card.

K. A law enforcement officer, the employing agency of the officer, the Department of Public Safety, and the State of Oklahoma shall be immune from any liability for any loss or hardship suffered by a Class D licensee or identification cardholder because the licensee or cardholder signed the exemption.

L. For purposes of this section, "biometric data" includes, but is not limited to:

1. Facial feature pattern characteristics;

2. Voice data used for comparing live speech with a previously created speech model of a person's voice;

3. Iris recognition data containing color or texture patterns or codes;

4. Retinal scans, reading through the pupil to measure blood vessels lining the retina;

5. Behavior characteristics of a handwritten signature, such as shape, speed, pressure, pen angle, or sequence;

6. ~~Fingerprints, palm prints, and other methods for measuring or recording ridge pattern or fingertip characteristics;~~

~~7.~~ Keystroke dynamics, measuring pressure applied to key pads;

~~8.~~ 7. Hand geometry, measuring hand characteristics, including the shape and length of fingers, in three (3) dimensions; ~~and~~

~~9.~~ 8. Deoxyribonucleic acid (DNA) and/or ribonucleic acid (RNA); and

9. A computerized facial image, or a hard copy of a facial image that, when scanned by electronic means, may be used to create a computerized facial image, which exceeds an uncompressed photographic resolution where the width of the head is forty-nine (49) pixels or more of resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or more of resolution, and an image height of one hundred six (106) pixels or more of resolution.

SECTION 2. This act shall become effective November 1, 2013.

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