

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 2168

By: Echols

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5
6 AS INTRODUCED

7 An Act relating to driver licenses; amending 47 O.S.
8 2011, Section 6-110.3, which relates to the issuance,
9 expiration and renewal of driver licenses; directing
10 the Department of Public Safety to include certain
11 exemption provision on driver license and
12 identification card applications; providing certain
13 exemptions to persons who sign exemption form;
14 directing the Department of Public Safety to cease
15 collecting, retaining and disclosing biometric data;
16 providing procedures for storing and collecting
17 facial images; prohibiting retention of facial
18 images; requiring deletion of facial images and
19 biometric data; providing exceptions to photograph
20 retention and collection requirements; providing
21 immunity from liability; adding definition; and
22 providing an effective date.

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

24 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

1 approximately Eight Million Dollars (\$8,000,000.00) in added expense
2 and inconvenience to our state, and was adopted by the United States
3 Congress in violation of the principles of federalism contained in
4 the Tenth Amendment to the United States Constitution.

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

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

18 C. Any biometric data previously collected, obtained, or
19 retained in connection with motor vehicle registration or operation,
20 the issuance or renewal of driver licenses, or the issuance or
21 renewal of any identification cards by any department or agency of
22 this state charged with those activities shall be retrieved and
23 deleted from any and all databases. The provisions of this
24 subsection shall not apply to any data collected, obtained or

1 retained for a purpose other than complying with the REAL ID Act of
2 2005.

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

8 "BIOMETRIC IDENTIFICATION RELIGIOUS EXEMPTION"

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

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

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

22 2. Any existing facial image, if present, that is to be used
23 for such issuance shall be modified by the Department to comply with
24 the photo resolution provisions of this section or shall be

1 permanently deleted from the database of the Department after
2 printing the document.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 1. Facial feature pattern characteristics;

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

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

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- 1 4. Retinal scans, reading through the pupil to measure blood
2 vessels lining the retina;
- 3 5. Behavior characteristics of a handwritten signature, such as
4 shape, speed, pressure, pen angle, or sequence;
- 5 6. ~~Fingerprints, palm prints, and other methods for measuring~~
6 ~~or recording ridge pattern or fingertip characteristics;~~
- 7 7. Keystroke dynamics, measuring pressure applied to key pads;
- 8 ~~8.~~ 7. Hand geometry, measuring hand characteristics, including
9 the shape and length of fingers, in three (3) dimensions; ~~and~~
- 10 ~~9.~~ 8. Deoxyribonucleic acid (DNA) and/or ribonucleic acid
11 (RNA); and
- 12 9. A computerized facial image, or a hard copy of a facial
13 image that, when scanned by electronic means, may be used to create
14 a computerized facial image, which exceeds an uncompressed
15 photographic resolution where the width of the head is forty-nine
16 (49) pixels or more of resolution, which corresponds to a maximum
17 full image width of eighty-five (85) pixels or more of resolution,
18 and an image height of one hundred six (106) pixels or more of
19 resolution.

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

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22 54-1-5448 GRS 01/12/13

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