

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

Bill No.

By: Kern of the House

AS INTRODUCED

An Act relating to motor vehicles; creating the Biometric Driver License, Religious Exemption Act; which relates to driver license applications; for the purpose of enforcing law that protects First Amendment rights, providing a religious exemption from enrollment into an international biometric identification system; modifying requirement concerning social security numbers; prohibiting collection of social security numbers and information usable with biometric identification, to prevent potential international disclosure of such information relating to driver licenses, learner permits and identification cards; deletion of social security numbers and biometric information from active; archives and back-up storage; changes driver license photo specifications; prohibits certain technologies for driver licenses and identification cards; provides for increase in certain fees; providing for codification; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the

Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the “Biometric Driver License, Religious Exemption Act.”

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-106, as last amended by Section 6, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2008, Section 6-106), is amended to read as follows:

Section 6-106. A. 1. Every application for a driver license or identification card

shall be made by the applicant upon a form furnished by the Department of Public Safety.

2. Every original, renewal, or replacement application for a driver license or identification card made by a male applicant who is at least sixteen (16) but less than twenty-six (26) years of age shall include a statement that by submitting the application, the applicant is consenting to registration with the Selective Service System, except for such a person that makes application for the “BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION” as indicated in this section. The pertinent information from the application shall be forwarded by the Department to the Data Management Center of the Selective Service System in order to register the applicant as required by law with the Selective Service System. Any applicant refusing to sign the consent statement shall be denied a driver license or identification card unless the applicant signs, or by other means indicates agreement with, the “BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION” statement to be placed on the application by the Department by the effective date of this Act, that reads as follows:

“BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS
EXEMPTION”

“Because of my religious beliefs, I object to enrollment in an international biometric identification system (such as facial recognition, digital fingerprinting) that directly connects my body to identification and financial transactions, the linking of my Social Security number to biometric identification, personal-biometric information sharing and to identification using radio frequency identification technology (RFID) or similar technologies.”

The Department shall be prohibited from collecting or retaining a Social Security number of any male applicant that signs, or by other means indicates agreement with, the “BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION,” herein, the Exemption, for the purpose of Selective Service registration, and upon receipt of an application for Exemption, the Department shall, within three (3) months, permanently destroy from all records, databases, archives and back up storage, all information that may have been previously collected or retained for that purpose. Any applicant that applies for the exemption, that is a citizen of the United States, that is at least sixteen (16) but less than twenty-six (26) years of age, shall be informed by the Department that he is obligated to register with Selective Service when he is at least eighteen (18) years thirty one (31) days but less than twenty six (26) years old and that any applicant, between eighteen (18) years thirty one (31) days but less than twenty six (26) years old, must provide a one-time proof of registration, such as a “registration acknowledgement card,” in order to receive an original, renewal or replacement driver license or identification card. Upon providing the one-time proof of registration, the Department shall not require proof of registration in the future and shall indicate on the applicant’s record that the one-time proof of registration has been provided. The Department shall confirm the name on the proof of registration is that of the applicant, but the Department is prohibited from collecting any additional information from the proof of registration.

3. Every applicant for a driver license or identification card shall provide to the

Department at the time of application both primary and secondary proofs of identity. The Department shall promulgate rules prescribing forms of primary and secondary identification acceptable for an original Oklahoma driver license.

B. Every applicant for a driver license shall state upon the application the following information:

1. Full name;
2. Date of birth;
3. Sex;
4. Residence address and county of residence to be displayed on the license;
5. Mailing address, to be displayed on the license instead of residence address, and/or to be maintained by the Department for the purpose of giving notice, if necessary, as required by Section 2-116 of this title, or to be placed on ;
6. Medical information, as determined by the Department, which shall assure the Department that the person is not prohibited from being licensed as provided by paragraph 7 of subsection A of Section 6-103 of this title;
7. Whether the applicant is deaf or hard-of-hearing;
8. A brief description of the applicant, as determined by the Department;
9. Whether the applicant has previously been licensed, and, if so, when and by what state or country, and whether any license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for the suspension, revocation or refusal;
10. Whether the applicant is an alien eligible to be considered for licensure and is not prohibited from licensure pursuant to paragraph 9 of subsection A of Section 6-103 of

this title;

11. Whether the applicant has:

- a. previously been licensed and, if so, when and by what state or country, and
- b. held more than one license at the same time during the immediately preceding ten (10) years; and

12. Social security number, unless the applicant signs, or by other means indicates agreement with, the “BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION” and is applying for a non-commercial driver license or identification card. A Social Security number shall be collected from all applicants for a commercial driver license.

No person shall request the Department to use the social security number of that person as the driver license number. Upon renewal or replacement of any driver license issued after the effective date of this Act, the licensee shall advise the Department or the motor license agent if the present driver license number of the licensee is the social security number of the licensee. If the driver license number is the social security number, the Department or the motor license agent shall change the driver license number to a computer-generated alphanumeric identification.

C. In addition to the requirements of subsections A and B of this section, every applicant for a commercial driver license with a hazardous material endorsement shall submit to a security threat assessment performed by the Transportation Security Administration of the Department of Homeland Security as required by and pursuant to

49 C.F.R., Part 1572, which shall be used to determine whether the applicant is eligible for the endorsement pursuant to federal law and regulation.

The Department of Public Safety shall notify each commercial driving school of the passage of this section, and each commercial driving school shall notify prospective students of its school of the hazardous material endorsement requirement.

D. Whenever application is received from a person previously licensed in another jurisdiction, the Department shall request a copy of the driving record from the other jurisdiction and, effective September 1, 2005, from all other jurisdictions in which the person was licensed within the immediately previous ten (10) years. When received, the driving record shall become a part of the driving record of the person in this state with the same force and effect as though entered on the driver's record in this state in the original instance. The Department is prohibited from collecting, retaining or disclosing a Social Security number received from another jurisdiction, agency or other entity, for the purpose of issuing a non-commercial driver license or identification card, of a person that signs the "BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION."

E. Whenever the Department receives a request for a driving record from another licensing jurisdiction, the record shall be forwarded without charge.

SECTION 3 . NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-110.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Beginning on the effective date of this Act, any state agency or department

charged with motor vehicle registration or operation, the issuance or renewal of driver licenses, or the issuance or renewal of any identification cards, herein, the Department, shall modify the application for the issuance of a new or renewal, non-commercial driver license, learner permit, intermediate Class D license or identification card to include the following statement:

“BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS
EXEMPTION”

“Because of my religious beliefs, I object to enrollment in an international biometric identification system (such as facial recognition, digital fingerprinting) that directly connects my body to identification and financial transactions, the linking of my Social Security number to biometric identification, personal-biometric information sharing and to identification using radio frequency identification technology (RFID) or similar technologies.”

B. Any applicant, signing, or by other means indicating agreement with, the “BIOMETRIC and SOCIAL SECURITY NUMBER, RELIGIOUS EXEMPTION,” herein, the “Exemption,” shall be exempt from supplying a Social Security number for the issuance of a new, replacement or renewed, non-commercial driver license, learner permit, intermediate Class D license, or identification card. Any applicant signing, or by other means indicating agreement with the Exemption, shall be exempt from supplying biometric data, biometric sample or biometric template, and the Department shall be prohibited from collecting, retaining or disclosing the applicant’s Social Security number

or biometric sample, biometric template or biometric data, that may be obtained from any other entity. An individual may make an application for the Exemption at any time, as a replacement for a non-commercial driver license or identification card, or renewal for a non-commercial driver license or identification card, up to six (6) months in advance of expiration date, and all terms and conditions set forth in this section, shall apply at that time. Any individual unable to make an application for the Exemption in person may make the application by mail, accompanied by proof of identification, notarized request for exemption, and appropriate fees. Upon receipt of an application, received by mail, the Department shall mail the individual the requested non-commercial driver license or identification card, that is in compliance with this section, and any existing facial image, if present, that is to be used for such issuance, must be modified by the Department to comply with this section, or permanently deleted from the Department's database, after printing the document.

C. For purposes of this section, "biometric data", "biometric sample", and "biometric template" include, but are not limited to:

1. Facial feature pattern characteristics;
2. Computerized facial image or hard copy of the same that when scanned by electronic means may be used to create a computerized facial image that 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;

3. Voice data used for comparing live speech with a previously created speech model of a person's voice;
4. Iris recognition data containing color or texture patterns or codes;
5. Retinal scans, reading through the pupil to measure blood vessels lining the retina;
6. Behavior characteristics of a handwritten signature, such as shape, speed, pressure, pen angle, or sequence;
7. Fingerprints, palm prints, and other methods for measuring or recording ridge pattern or fingertip characteristics;
8. Keystroke dynamics, measuring pressure applied to key pads;
9. Hand geometry, measuring hand characteristics, including the shape and length of fingers, in three (3) dimensions; and
10. Deoxyribonucleic acid (DNA) and/or ribonucleic acid (RNA).

D. The Department, upon the effective date of this Act, shall cease all biometric data comparisons, and collection of any biometric data, biometric sample or biometric template, of an applicant that signs, or indicates by other means agreement with the Exemption, and the Department shall modify existing computer software used for collecting facial images of an applicant for the Exemption, so that such facial images collected after the effective date of this Act, do 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 and six (106) pixels or more. The

Department shall store facial images, that comply with this subsection, in a separate database that is not accessible by any other governmental or non-governmental entity, but accessible only by the Department, and such facial images shall not be subject to biometric comparisons. Facial images collected in compliance with this section, shall be collected using a white background and no facial image shall be collected using a blue background so that facial images collected in compliance with this section may be more readily distinguished from facial images previously collected at a higher photographic resolution. The Department shall not require an applicant for the Exemption to remove prescription corrective eyeglasses or to provide a specific facial expression, when a facial image is collected. The Department is prohibited from retaining more than one (1) facial image of the individual, and shall not collect any additional images, at time of a driving examination or when an identification card or non-commercial driver license is issued or renewed, unless previous attempts failed to collect a full frontal view of the individual's face that is a reasonable representation of the individual, for the purpose of identification by a human. Only the facial image, to be printed on the identification card or non-commercial driver license, shall be retained by the Department, and all previously collected images of the individual shall be permanently, and immediately, deleted. A facial image, collected by a driver license examiner, shall be the image used for licensing or identifying the individual so that the individual shall not be subjected to collection of an additional facial image.

E. The Department shall establish locations so that no applicant for the Exemption, shall have to travel more than 75 miles within the state, to be examined for the issuance of a non-commercial driver license, or issuance of a new, renewed or

replacement non-commercial driver license, or identification card, and that cameras and software used in those locations must be able to collect a facial image in compliance with this section, and that all such locations, be so indicated and included in all lists, that identify locations for examination or issuance of non-commercial driver licenses or identification cards.

F. Upon receipt of an application for the Exemption, the Department shall, within three (3) months of that date, permanently delete from all active databases, archival or back-up storage databases, that are in the possession of the Department or of any third party relating to those activities, any social security number or biometric data, biometric sample or biometric template, or facial image, not complying with this section, that were previously collected, obtained or retained, from any applicant, signing, or by other means indicating agreement with, the Exemption.

G. The Department may collect from an applicant of the Exemption, an increased fee for the issuance of a non-commercial driver license or identification card, that shall not exceed an increase of fifty percent (50%) of the cost of a similar identification document, that does not comply with the requirements set forth in this section, and that the additional collection of such fees shall not exceed five (5) years, of the effective date of this Act. Any increase in fees collected shall not exceed the actual increase in cost to the Department incurred for the implementation of this Act.

H. This section shall not be construed as preventing the following:

1. The collection or retention of photographs or fingerprints 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 motor vehicle offense for which a physical custody arrest was made and bail is required; or

2. The use of finger imaging software, and related equipment, only at specific locations designated by the Department, where fingerprints are collected for the purpose of performing criminal record checks required under federal regulations governing the issuance of hazardous materials endorsements on driver licenses and the taking, and retention, of fingerprints for that express purpose.

3. The use, collection, storage or sharing of a Social Security number relating to a commercial driver license.

4. 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.

5. Enforcement of laws relating to child support enforcement, provided that such enforcement does not require the collection, retention or disclosure of a Social Security number of an applicant for the Exemption, to the Department.

I. Any person that has signed, or indicated by other means, agreement with the Exemption, shall be exempt from the issuance of a non-commercial driver license or identification card that utilizes the technology known as "Radio Frequency

Identification", "RFID", "Radio Frequency Technology", or "RFT", or similar technologies or devices, that are capable of storing and transmitting personally identifiable information or unique numbers, codes, or algorithms which directly correlate to personal information held in another location, database, or device. This subsection shall not be construed as applying to devices used for identifying persons relating to punishment for criminal offenses, where such identification uses are allowed by law, or for such devices used for turnpike or toll road passes.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.