

# LEGISLATION

## The "BIOMETRIC AND SOCIAL SECURITY NUMBER RELIGIOUS EXEMPTION ACT"

SECTION 1. NEW LAW A new section of law to be codified in the (Appropriate Statutes of State, hereafter "Statutes"), unless there is created a duplication in numbering, reads as follows:

A. This section shall become fully implemented and in full effect no later than *(This date will depend on the terms of the current driver license contract, typically 12-18 months)*. Any contract with a driver license or identification card vendor shall contain procedures and provide for software necessary to meet the requirements of this section.

B. For the purposes of this section:

1. "Biometric data", "biometric sample" or "biometric template" means, but is not limited to:

- a. facial feature pattern characteristics,
- b. 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,

- c. voice data used for comparing live speech with a previously created speech model of the voice of a person,
- d. iris recognition data containing color or texture patterns or codes,
- e. retinal scans, reading through the pupil to measure blood vessels lining the retina,
- f. behavior characteristics of a handwritten signature, such as shape, speed, pressure, pen angle, or sequence,
- g. fingerprints, palm prints, and other methods for measuring or recording ridge pattern or fingertip characteristics,
- h. keystroke dynamics, measuring pressure applied to key pads,
- i. hand geometry, measuring hand characteristics, including the shape and length of fingers, in three dimensions, and
- j. deoxyribonucleic acid (DNA) or ribonucleic acid (RNA);

2. *"(Designation for non-commercial driver license, ex. "Class D driver license," hereafter "DL") means an original, renewal, or replacement (DL), a learner permit, or an intermediate (DL) issued by the (Department of Motor Vehicles or other responsible department for driver license or identification card issuance, hereafter "DMV") in accordance with (Statutes);*

3. "Exemption" means the exemption as described in subsection C of this section;

4. "Identification card" means an original, renewal, or replacement identification card issued by the (DMV) in accordance with (Statutes); and

5. "Sign the exemption," "signed the exemption" or "signing the exemption" means to sign the exemption, to have signed the exemption or signing the exemption, and includes any

1 other legally binding means used to indicate agreement with and acceptance of the  
2 exemption by the applicant when a physical signature may not be possible.

3 C. The (DMV) shall modify the application for the issuance of a (DL) or an identification  
4 card to contain a statement of exemption, to include the following language:

5 "BIOMETRIC AND SOCIAL SECURITY NUMBER RELIGIOUS EXEMPTION"

6 "Because of my religious beliefs, I object to enrollment in an international biometric  
7 identification system including, but not limited to, facial recognition and digital finger printing,  
8 that directly connects my body to identification, the linking of my Social Security number to  
9 biometric identification, personal biometric information sharing and to identification using  
10 radio frequency identification technology (RFID) or similar technologies."

11 D. 1. Any applicant who has signed the exemption shall be exempt from supplying  
12 biometric data to the (DMV).

13 2. A current (DL) licensee or identification card holder may make an application for a  
14 replacement or renewal of the license or identification card for the purpose of signing the  
15 exemption at any time in accordance with applicable laws regarding issuance, renewal or  
16 replacement of a (DL) or an identification card.

17 3. Any applicant who has signed the exemption when applying for the issuance,  
18 renewal or replacement of a (DL) or an identification card, shall be exempt from having the  
19 Social Security number of the applicant retained in an active database by the (DMV) for  
20 longer than seventy-two (72) hours, or until such time the Social Security number is disclosed  
21 to the Department of Human Services (or other agency responsible for child welfare support  
22 enforcement, hereafter "Department of Human Services"). Upon receipt of an application for  
23 exemption, the (DMV) shall, within ninety (90) days of receiving the application, permanently  
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1 delete from all active databases, archival, or backup storage databases of the (DMV), any  
2 Social Security number that was previously collected, obtained or retained from the applicant.  
3 The (DMV) shall be prohibited from retaining the Social Security number in an active  
4 database longer than seventy-two (72) hours or until such time the Social Security number is  
5 disclosed to the Department of Human Services.

6 4. An individual may make an application for the exemption as a replacement for a  
7 noncommercial driver license or identification card at any time or as a renewal of a  
8 noncommercial driver license or identification card up to twelve (12) months in advance of the  
9 expiration date of the driver license or identification card or as provided in subsection M of  
10 this section. Any individual that is out-of-state and unable to make an application for the  
11 exemption in person may make the application by mail, accompanied by proof of  
12 identification and appropriate fees. Upon receipt of an application, received by mail, the  
13 Department shall mail the individual the requested non-commercial driver license or  
14 identification card that is in compliance with this section. Any existing facial image, if present,  
15 that is to be used for such issuance shall be modified by the Department to comply with the  
16 photo resolution provisions of this section or shall be permanently deleted from the database  
17 of the Department after printing the document. A modified facial image, made to comply with  
18 the photo resolution provisions of this section, is not required to have a white background.

19 E. The (DMV) shall cease collecting, retaining or disclosing biometric data, biometric  
20 samples or biometric templates, and from making biometric comparisons of an applicant who  
21 has signed the exemption. Any facial image, collected by the (DMV), of an applicant who has  
22 signed the exemption, shall be collected and stored in compliance with this section, and:  
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1 1. In the format where the facial image collected does not exceed an uncompressed  
2 photographic resolution where the width of the head is forty-nine (49) pixels or more of  
3 resolution, which corresponds to a maximum full image width of eighty-five (85) pixels or  
4 more and a maximum image height of one hundred and six (106) pixels or more; and

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

7 F. Any facial image, collected by the (DMV), of an applicant who has signed the  
8 exemption, shall be collected and stored in compliance with this section, and:

9 1. Shall be collected using a white background; and

10 2. Shall not be collected using a blue background so that the image may be more  
11 readily distinguished from facial images collected at a higher resolution and subjected to  
12 facial recognition.

13 G. The (DMV) shall not require an applicant who has signed the exemption to remove  
14 prescription corrective eyeglasses when the Department collects a facial image of the  
15 applicant; provided, the applicant shall be prohibited from wearing sunglasses of any kind  
16 when the Department collects a facial image of the applicant.

17 H. The (DMV) shall not retain at any time more than one facial image of an applicant  
18 who has signed the exemption. Only the facial image printed on the most current (DL) or  
19 identification card issued to the applicant, shall be retained by the Department. All previously  
20 collected images of the applicant shall be permanently and immediately deleted as provided  
21 in subsection I of this section, and the collection by the (DMV) of any new facial image of the  
22 applicant who has signed the exemption, shall cause any previous facial image to be  
23 permanently and immediately deleted. The (DMV) may disclose the facial image of an  
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1 applicant retained in the database of the (DMV) only to a law enforcement officer, law  
2 enforcement agency, the Department of Human Services for purposes of child support  
3 enforcement, or to the public for assistance in locating a person of interest or a missing  
4 person, provided that access to the facial image and disclosure of the facial image is limited  
5 to one name, one record and one facial image. Nothing in this section shall be construed as  
6 preventing a motor license agent from performing his or her duties as required by law.

7 I. Upon receipt of a signed exemption, the (DMV) shall, within ninety (90) days of  
8 receiving the application, permanently delete from all active, archival, backup, and storage  
9 databases of the Department any biometric data, biometric template or biometric sample  
10 previously collected, obtained or retained from the applicant.

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

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

17 2. The collection of fingerprints for the Transportation Security Administration for the  
18 purpose of performing criminal record checks required under federal regulations governing  
19 the issuance of hazardous materials endorsements on commercial driver licenses and the  
20 taking, and retention, of fingerprints for that express purpose;

21 3. The use, collection, storage or disclosure of a Social Security number relating to a  
22 commercial driver license;

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

5 5. The administration of the Sex Offenders Registration Act as it applies to the issuance  
6 of a (DL) or identification card.

7 K. Any person who has signed the exemption, shall be exempt from the issuance of a  
8 (DL) or identification card which utilizing the technology known as "Radio Frequency  
9 Identification", "RFID", "Radio Frequency Technology", or "RFT", or similar technologies or  
10 devices, should the (DMV) ever incorporate those technologies or devices into the (DL) or  
11 identification card, that are capable of storing and transmitting personally identifiable  
12 information or unique numbers, codes, or algorithms which directly correlate to personal  
13 information held in another location, database, or device.

14 L. A law enforcement officer, the employing agency of the officer, the (DMV) and the  
15 State of (name of State) shall be immune from any liability for any loss or hardship suffered  
16 by a (DL) licensee or identification card holder because the licensee or card holder signed the  
17 exemption.

18 M. Upon passage of this Act into law, the (DMV) shall be prohibited from placing an  
19 additional burden on the religious freedom of an applicant who has signed the exemption,  
20 pursuant to the First Amendment to the Constitution of the United States of America that  
21 prohibits any law from preventing the free exercise of religion, (and pursuant to any State  
22 Statute that prohibits any governmental entity from substantially placing a burden on the  
23 exercise of religion) so that the Department shall allow the renewal or replacement of a (DL)  
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1 or an identification card, of any applicant who signed the exemption and is so entitled, using  
2 the most recent facial image in the possession of the Department so that the applicant shall  
3 not be required to submit to the collection of a facial image, finger image or other form of  
4 identification potentially used for biometric identification, after the passage of this Act into law.  
5 Any applicant who has signed the exemption, may submit to the Department, in person or by  
6 mail, such application, up to one (1) year (or longer, as may be applicable in State law) after  
7 the expiration of a (DL) or identification card, and the Department shall issue the renewal or  
8 replacement (DL) or identification card when such application is accompanied by proof of  
9 identification and appropriate fees. The provisions of this subsection shall apply until this Act  
10 is fully implemented by the Department.

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12 SECTION 2. It being immediately necessary for the preservation of the public peace,  
13 health and safety, an emergency is hereby declared to exist, by reason whereof this act shall  
14 take effect and be in full force from and after its passage and approval.

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16 (NOTE: Sections of this Act require immediate action by the DMV, before the Act is fully  
17 implemented. The Act, and its provisions must be made "effective" as soon as possible, but  
18 the DMV must be given time to "implement" the technical and contractual requirements of the  
19 Act. Each State must use proper language regarding effective date and implementation date.)  
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## OTHER LEGISLATIVE CONSIDERATIONS

There are three items of additional consideration that are vital to this legislation. Since these additional items will probably amend current legislation, unique to each state, these items must be addressed separately from the main body of legislation.

1. Cost of Implementation, Amendment to Current Fees, Distribution of Fees
2. Social Security Numbers, Selective Service Enrollment & Privacy
3. Receiving and Sharing Social Security Numbers from other Jurisdictions

### **1. Cost of Implementation, Amendment to Current Fees, Distribution of Fees**

The above legislation is largely based on legislation filed in Oklahoma in 2010. There were many hours of discussions between agencies to arrive at the best, simplest and most acceptable means of funding this legislation. It was decided to raise the cost of every non-commercial driver license by \$1.00. Charging an increased fee for just exemption holders could have caused a short fall depending on the number of exemption applicants. A religious exemption is potentially more costly than an outright end to biometrics, since the state may have to create two complete photo systems (high-resolution and low-resolution). Increasing the cost on all driver licenses insures that the DMV and Human Services get the money they need to implement the system regardless of the quantity of exemption applicants. Any additional fees, that may be collected also “encourages” the departments to “approve” of the legislation. However, the same fee would more than cover any expense needed to change the existing driver license contract to end biometrics completely. So, a single \$1.00 increase is simple and deemed best.

Each state must change existing law to reflect this change in fees, assess how the fee is to be disbursed and how the fee is to be divided between the DMV and the Department of Human Services.

1 **IT IS EXTREMELY IMPORTANT THIS FEE IS INCLUDED IN THE LEGISLATION IN THE**  
2 **APPROPRIATE AREA OF EACH STATE’S LAW. FAILURE TO ADDRESS THE COST OF**  
3 **THIS LEGISLATION WILL UNDERMINE ITS POTENTIAL SUCCESS.**

4 Suggested language below:

5 “One Dollar (\$1.00) from the Class D License fee shall be deposited to the Department  
6 of Public Safety Computer Imaging System Revolving Fund to be disbursed between  
7 the (DMV) and the Department of Human Services, as provided for in an interagency  
8 agreement, for the purpose of information collection and administration pursuant to  
(Section and Title of State Law).”

9 **2. Social Security Numbers, Selective Service Enrollment & Privacy**

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11 • **Driver License Forms**

12 Regarding the section and title of law dealing information to be collected for a driver license  
13 application, the collection of a Social Security number (on paper) should still be allowed. This  
14 paper record “outwardly” fulfills the federal requirement for “collection” regarding child support  
15 enforcement purposes (Welfare Reform Act) but after the legislation is implemented and the  
16 Social Security number is wiped from databases, the number is placed out of reach,  
electronically, for wholesale biometric searches tied to Social Security numbers (SSN).

17 The State Department of Human Services will probably create a backup of a SSN provided  
18 by the DMV, but will not have access to ALL photos of ALL individuals. This “de-  
19 centralization” of data is the best means of protecting personal information from being  
20 attacked by federal legislation and yet, the legislation skirts around the financial trap of losing  
highway funds if no SSN is collected.

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22 • **Selective Service Registration**

23 About 34 states link driver license issuance to Selective Service registration. This  
24 requirement should be repealed since Selective Service registration would require the  
collection and disclosure of a SSN and such disclosure is made through a network controlled

1 by and international organization (AAMVA – American Association of Motor Vehicle  
2 Administrators).

3 An alternative to outright repeal is provided below. This alternative would require “proof” of  
4 Selective Service registration, rather than registration through the DMV. This language  
5 satisfies the concerns of those who want young men to register (or not drive) and yet it  
6 protects their SSN from disclosure to AAMVA and retention by the DMV for that purpose.

7 Alternative suggested language below:

8 “Every original, renewal, or replacement application for a driver license or identification  
9 card made by a male applicant who is a citizen of the United States and at least  
10 sixteen (16) but less than eighteen (18) years and thirty (30) days old shall include a  
11 statement that by submitting the application, the applicant acknowledges an obligation  
12 to register with the Selective Service System and that registration shall occur before  
13 receiving a renewal driver license or identification card. A male, that is a citizen of the  
14 United States and is at least eighteen (18) years and thirty-one (31) days old but less  
15 than twenty-six (26) years old, shall provide a one-time proof of registration, such as a  
16 “registration acknowledgement card” in order to receive an original, renewal or  
17 replacement driver license or identification card. Upon providing the one-time proof of  
18 registration, the Department shall not require proof of registration in the future and  
19 shall indicate on the driving record of the applicant that the one-time proof of  
20 registration has been provided. The Department shall confirm the name on the proof  
21 of registration is that of the applicant, but the Department is prohibited from collecting  
22 any additional information from the proof of registration.”

23 • **Mailing Address**

24 The section and title of law dealing with driver license application requirements should be  
modified to allow the use of a mailing address on the driver license or ID card. A person  
choosing a religious exemption, for example, should not be “targeted” because of their  
choice, and the individual must be allowed to retain some public anonymity. Also, newer  
driver licenses include barcodes and magnetic strips and many retailers “swipe” the driver

1 license to gather “all” the data they can. The acts of demographic profiling and information  
2 gathering will undermine privacy and therefore, protections must be in place, i.e. mailing  
3 address that differs from physical address.

4 **3. Receiving and Sharing Social Security Numbers from other Jurisdictions**

5 Existing state law should be modified to prevent the DMV from receiving a SSN from another  
6 jurisdiction.

7 Suggested language is below.

8 “Unless otherwise provided by law, the (DMV) is prohibited from collecting, retaining or  
9 disclosing a Social Security number received from another jurisdiction, agency or other  
10 entity, for the purpose of issuing a (designation for non-commercial driver license,  
11 learner permit, intermediate driver license, or identification card, ex. Class D).”

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