

**Senate Bill No. 45**

(By Senator Barnes)

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[Introduced February 13, 2013; referred to the Committee on  
Transportation and Infrastructure; and then to the Committee on  
the Judiciary.]

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**FISCAL  
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §17B-2-6a, relating  
to providing a religious exemption to the collection of Social  
Security numbers and information usable with biometric  
information when issuing driver's licenses; and rule-making  
authority.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new section, designated §17B-2-6a, to read as  
follows:

**ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.**

**§17B-2-6a. Biometric driver license religious exemption.**

(a) Beginning on the effective date of this section, the

1 Division of Motor Vehicles or other state agency or department  
2 charged with motor vehicle registration or operation, the issuance  
3 or renewal of driver licenses or the issuance or renewal of any  
4 identification cards, shall modify the application to include the  
5 following statement:

6 "BIOMETRIC AND SOCIAL SECURITY NUMBER RELIGIOUS  
7 EXEMPTION: Because of my religious beliefs, I object to  
8 enrollment in a biometric identification system, such as  
9 facial recognition and digital fingerprinting, that  
10 directly connects my body to identification and financial  
11 transactions, the linking of my social security number to  
12 biometric identification, personal-biometric information  
13 sharing and to identification using radio frequency  
14 identification (RFID) or similar technologies."

15 (b) Any applicant signing, or by other means indicating  
16 agreement with, the "Biometric and Social Security Number Religious  
17 Exemption" is exempt from supplying a social security number for  
18 the issuance of a new, replacement or renewed, noncommercial driver  
19 license, learner permit, Class D license or identification card.

20 (c) Any applicant signing, or by other means indicating  
21 agreement with, the "Biometric and Social Security Number Religious  
22 Exemption" is exempt from supplying biometric data, biometric  
23 sample or biometric template and the division or other state agency

1 is prohibited from collecting, retaining or disclosing the  
2 applicant's social security number or biometric sample, biometric  
3 template or biometric data that may be obtained from any other  
4 entity.

5 (d) An individual may make an application for the "Biometric  
6 and Social Security Number Religious Exemption", at any time, as a  
7 replacement for a noncommercial driver license or identification  
8 card or renewal for a noncommercial driver license or  
9 identification card, up to six months in advance of expiration  
10 date. An individual unable to make an application for the  
11 exemption in person may make the application by mail, accompanied  
12 by proof of identification, notarized request for exemption and  
13 appropriate fees.

14 (e) The division, upon the effective date of this section,  
15 shall cease all biometric data comparisons and the collection of  
16 biometric data, biometric sample or biometric template of an  
17 applicant that signs, or indicates by other means agreement with  
18 the exemption, and shall perform as follows:

19 (1) Modify existing computer software used for collecting  
20 facial images of an applicant for the exemption so that facial  
21 images collected do not exceed an uncompressed photographs  
22 resolution where the width of the head is forty-nine pixels or more  
23 of resolution which corresponds to a maximum full image width of

1 eighty-five pixels or more and a maximum image height of one  
2 hundred and six pixels or more; and

3 (2) Store facial images that comply with this subsection in  
4 a separate database that is not accessible by any other  
5 governmental or nongovernmental entity but accessible only by the  
6 division.

7 (f) The division shall not subject facial images to biometric  
8 comparisons and shall not require an applicant for the exemption to  
9 remove prescriptive corrective eyeglasses or to provide a specific  
10 facial expression when the image is collected.

11 (g) No more than one facial image of an applicant for the  
12 exemption, to be printed on the identification card or  
13 noncommercial driver license, may be maintained by the division at  
14 any time unless previous attempts have failed to collect a full  
15 frontal view of the individual's face that is a reasonable  
16 representation of the individual. All previously collected images  
17 shall be permanently and immediately deleted.

18 (h) The division shall establish locations so that no  
19 applicant for the exemption must travel more than seventy-five  
20 miles within the state to be examined for the issuance of a  
21 noncommercial driver license or issuance of a new, renewed or  
22 replacement noncommercial driver license or identification cards.  
23 With respect to each such location, cameras and software used must

1 be able to collect a facial image in compliance with this section.  
2 All exemption locations must be identified by the division and  
3 included in all lists that identify locations for examination or  
4 issuance of noncommercial license or identification cards.

5 (I) Upon receipt of an application for the exemption, the  
6 division shall within three months of that date, permanently delete  
7 from all active databases, archival or back-up storage databases  
8 that are in the possession of the division or of any third party  
9 relating to the division's activities, any social security number  
10 or biometric data, biometric sample or biometric template or facial  
11 image not complying with this section that were previously  
12 collected, obtained or retained from any applicant signing, or by  
13 other means indicating agreement with, the exemption.

14 (j) The division may collect from an applicant for the  
15 exemption an increased fee for the issuance of a noncommercial  
16 driver license or identification card not to exceed fifty percent  
17 of the cost of a similar identification document that does not  
18 comply with the requirements of this section. The additional fee  
19 shall not be collected for more than five years of the effective  
20 date of this section and shall not exceed the actual increase  
21 incurred by the division for the implementation of this section.

22 (k) This section does not prevent the following:

23 (1) The collection or retention of photographs or

1 fingerprints for the purpose of enforcing laws relating to serious  
2 traffic offense including, but not limited to, driving while  
3 intoxicated, reckless driving, negligent homicide with the use of  
4 a motor vehicle or other motor vehicle offense for which a physical  
5 custody arrest is made and bond required;

6       (2) The use of finger imaging software and related equipment  
7 only at specific locations designated by the division where  
8 fingerprints are collected for the purpose of performing criminal  
9 record checks required under federal regulations governing the  
10 issuance of hazardous materials endorsements on driver licenses and  
11 the taking and retention of fingerprints for that express purpose;

12       (3) The use, collection, storage or sharing of a social  
13 security number relating to a commercial driver license;

14       (4) Requesting and receiving a motor vehicle and driver  
15 license records or from having legal access to information in the  
16 possession of the division, by law-enforcement agencies so long as  
17 such access and requests for this information are specific to  
18 individual records and individual persons; and

19       (5) Enforcement of laws relating to child support enforcement  
20 so long as such enforcement does not require the collection,  
21 retention or disclosure of a social security number of an applicant  
22 for the exemption within the division.

23       (1) A person that has signed, or indicated by other means

1 agreement with, the exemption is exempt from the issuance of a  
2 noncommercial driver license or identification that uses the  
3 technology known as Radio Frequency Identification (RFI), Radio  
4 Frequency Technology (RFT), or similar technologies or devices,  
5 that are capable of storing and transmitting personally  
6 identifiable information or unique numbers, codes or algorithms  
7 which directly correlate to personal information held in another  
8 location, database or device. This subsection does not apply to  
9 devices used for identifying persons relating to punishment for  
10 criminal offenses where such identifications uses are allowed by  
11 law or for such devices used for turnpike or toll road passes.

12 (m) For purposes of this section, "biometric data",  
13 "biometric sample" and "biometric template" include, but are not  
14 limited to, the following:

15 (1) Facial feature pattern characteristics;

16 (2) Computerized facial image or hard copy of the same that  
17 when scanned by electronic means may be used to create a  
18 computerized facial image that exceeds an uncompressed photographic  
19 resolution where the width of the head is forty-nine pixels or more  
20 of resolution which corresponds to a maximum full image width of  
21 eighty-five pixels or more of resolution and an image height of one  
22 hundred six pixels or more of resolution;

23 (3) Voice data used for comparing live speech with a

1 previously created model of a person's voice;

2       (4) Iris recognition data containing color or texture  
3 patterns or codes;

4       (5) Retinal scans, reading through the pupil measure blood  
5 vessels lining the retina;

6       (6) Behavior characteristics of a handwritten signature, such  
7 as shape, speed, pressure, pen angle or sequence;

8       (7) Fingerprints, palm prints and other methods for measuring  
9 or recording ridge pattern or fingertip characteristics;

10       (8) Keystroke dynamics measuring pressure applied to key  
11 pads;

12       (9) Hand geometry measuring hand characteristics including  
13 the shape and length of fingers in three dimensions; and

14       (10) Deoxyribonucleic acid (DNA) and ribonucleic acid (RNA).

15       (n) The commissioner shall propose rules for legislative  
16 approval in accordance with the provisions of article three,  
17 chapter twenty-nine-a of this code to implement the provisions of  
18 this section.

NOTE: The purpose of this section is to provide a religious exemption to the collection of social security numbers and information usable with biometric information when issuing drivers licenses and rule-making authority.

§17B-2-6a is new; therefore, strike-throughs and underscoring have been omitted.