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THE SENATE OF MARYLAND
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SB712: For Your Reference - Other States with ID Swiping Laws

Senate Finance Committee
Wednesday, March 16, 2022 | 1pm

California (2015)

Can only swipe:

- To verify the age or the authenticity of the driver's license or identification card.
- To comply with a legal requirement to record, retain, or transmit that information.
- To transmit information to a check service company
- To collect or disclose personal information that is required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation.
- An organ procurement organization may scan or swipe a driver's license or identification card

Florida (2016)

Exceptions:

- verify the authenticity of a driver license or identification card or to verify the identity of the individual if the individual pays for a good or service with a method other than cash, returns an item, or requests a refund.
- To verify the individual's age when providing an age-restricted good or service.
- To prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system.
- To transmit information to a check services company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payment.
- To comply with a legal requirement to record, retain, or transmit the driver license information.

Georgia (2010)

Prohibitions:

- Cannot scan another person's driver's license, permit, or identification card without the person's prior knowledge and consent.

Exceptions:

- This prohibition shall not apply to law enforcement officers or **any governmental entity** that scans a driver's license, permit, or identification card to verify the contents thereof or to gather information for use for any governmental purpose

Hawaii (2012)

Exceptions:

- To verify authenticity of ID
- To verify age **when providing age-restricted goods**
- To prevent fraud/criminal activity for returns, refunds or exchanges if business uses a fraud prevention service system OR to establish contractual relationship, but can only collect:
 - Name;
 - Address;
 - Date of birth; and
 - Driver's license number or identification card number;
- As required by Federal or state law
- To transmit information to a consumer reporting agency, financial institution, or debt collector to be used as permitted by the federal Fair Credit Reporting Act, Gramm-Leach-Bliley Act, or the Fair Debt Collection Practices Act
- To record, retain, or transmit information by a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services.

Prohibitions:

- No business shall retain any information obtained pursuant to subsection (a), except as permitted above.
- No business shall sell or disseminate to a third party any information obtained under this section for any purpose, including marketing, advertising, or promotional activities, except as permitted above.

Nebraska (2010)

Exceptions:

- For purposes of compliance with and enforcement of restrictions on the purchase of alcohol, lottery tickets, and tobacco products: **Age and license or card identification number**
- For purposes of compliance with the provisions of sections 28-458 to 28-462, a seller who sells methamphetamine precursors pursuant to such sections may scan machine-readable information encoded on an operator's license or a state identification card presented for the purpose of such a sale: **Name, age, address, type of identification presented by the customer.**

New Hampshire (2003)

Exceptions:

- Person can transfer in non-electronic form or format, personal information contained on the face of a license to another person, provided that the consent of the license holder is obtained if the transfer is not to a law enforcement agency.
- Pawnbroker or secondhand dealer:
 - With license holder's consent as part of a sale of merchandise, and submission of such information to law enforcement databases for the sole purpose of identifying sellers of stolen merchandise.
 - Shall not retain information, unless required by local regulation
 - May only furnish to law enforcement
 - May maintain a log of the name and address of the person whose license was scanned

New Jersey (2017)

A retail establishment shall scan a person's identification card only for the following purposes:

- to verify the authenticity of the identification card or to verify the identity of the person if the person pays for goods or services with a method other than cash, returns an item, or requests a refund or an exchange;
- to verify the person's age when providing age-restricted goods or services to the person;
- to prevent fraud or other criminal activity if the person returns an item or requests a refund or an exchange;
- to establish or maintain a contractual relationship;
- to record, retain, or transmit information as required by State or federal law;
- to transmit information to a consumer reporting agency, financial institution, or debt collector to be used as permitted by the federal "Fair Credit Reporting Act,";
- to record, retain, or transmit information by a covered entity governed by the medical privacy and security rules;
- Information collected by scanning a person's identification card pursuant to subsection b. of this section shall be limited to the person's name, address, date of birth, ¹the State issuing the identification card.¹ and identification card number.

Ohio (2015) (3 different laws)

- CAN scan to check the validity of a driver's license or identification card for selling, giving away, or otherwise distributing a pseudoephedrine product or ephedrine product. (<http://codes.ohio.gov/orc/4301.61>)
- CAN scan to check the validity of a driver's license or identification card for purchasing any beer, intoxicating liquor, or low-alcohol beverage; or gaining admission to a premises that has been issued a liquor permit authorizing the sale of alcohol; and where admission is restricted to persons twenty-one years of age or older. (<http://codes.ohio.gov/orc/4301.61>)
- CAN scan to check the validity of a driver's license or identification card for selling, giving away, or otherwise distributing to the cardholder cigarettes, other tobacco products, or alternative nicotine products. (<http://codes.ohio.gov/orc/2927.021>)

Oregon (2015)

Exceptions:

- To verify the authenticity of a driver's license or identification card or to verify the identity of the individual if the individual pays for a good or service with a method other than cash, returns an item or requests a refund.
- To verify the individual's age when providing an age-restricted good or service
- To prevent fraud or other criminal activity if an individual returns an item or requests a refund and the private entity uses a fraud prevention service company or system.
- To transmit information to a check services company
- A private entity that is a commercial radio service provider that provides service nationally and that is subject to the Telephone Records and Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver's license or identification card if the entity obtains permission from the individual to swipe the individual's driver license or identification card.
 - **Information collected by swiping an individual's driver's license or identification card shall be limited to NAME, ADDRESS, DOB, and DRIVER'S LICENSE #/ID #.**

Rhode Island (2004)

Prohibitions:

- Nongovernmental entities shall not :
 - have access to any digitized information contained in an operator or chauffeur's license other than the licensee's name, age, date of birth, signature, and photographic image, and the license's expiration date;
 - store, record or retain any such information obtained through a digital reading device.
 - And may be civilly liable for the unauthorized access to, or retention or use of, such information by its agents or persons acting in the name of the entity.

- After the time when the individual is no longer liable/doing business with the company

Exceptions:

- Entities authorized to renew driver's licenses
- Financial institutions engaged in the verification of information for financial transactions
- Nongovernmental entities can access digitized driver's license information solely for the purpose of determining the age of an individual for a transaction, right or privilege available by law only to persons of a certain age

Texas (2010)

Prohibitions:

- The department may not include any information on a driver's license, commercial driver's license, or personal identification certificate in an electronically readable form other than the information printed on the license and a physical description of the licensee.
- Using information obtained to solicit purchases, rentals, investments.

Exceptions:

- Law enforcement or governmental purpose, including:
 - Person carrying out law enforcement/government duties
 - Peace Officer
 - License deputy under Parks and Wildlife Code
 - Acting under Alcoholic Beverage Code
 - Establishing voter identity
 - Acting under Health and Safety Code
 - Screening a person who will work with children at a public school or federal tax exempt organization that sponsors a program for youth
- Financial institutions in following circumstances:
 - **Also for businesses** - Identification verification of an individual or check verification at the point of sale for a purchase of a good or service by check
 - If license holder consents to inclusion of their information in database/compilation
- A check services company or a fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) that, for the purpose of preventing fraud when effecting, administering, or enforcing the transaction:
 - accesses or uses as electronically readable information a driver's license number or a name printed on a driver's license; or
 - compiles or maintains a database of electronically readable driver's license numbers or names printed on driver's licenses and periodically removes the numbers or names from the database that are at least four years old;
- If authorized by the executive or administrative head of a maritime facility or port authority to secure the facility or port. The information may be used only to:

- (1) identify an individual;
 - (2) provide official credentials for an individual;
 - (3) track or limit the movement of an individual on facility property;
 - (4) establish a secure database of visitors to the facility;
 - (5) access the information at terminal and gate operations of the facility; or
 - (6) conduct other security or operational activities as determined by the executive or administrative head.
- Hospital that accesses, uses, compiles, or maintains a database of the information to provide health care services to the individual who holds the driver's license. **However, if an individual objects to collection of information from the license , the hospital must use an alternative method for collecting the individual's information.**
 - They may not sell, transfer, or otherwise disseminate the information to a third party
 - May transfer the information only in accordance with the rules implementing the federal Health Insurance Portability and Accountability Act of 1996
 - Business associate or subcontractor of a hospital can only use information to maintain the hospital's database.

Virginia (2020)

Exceptions:

- To verify the authenticity of the identification card or driver's license or to verify the identity of the individual if the individual pays for goods or services with a method other than cash, returns an item, or requests a refund or an exchange;
- To verify the individual's age when providing age-restricted goods or services;
- To prevent fraud or other criminal activity if the individual returns an item or requests a refund or an exchange and the merchant uses a fraud prevention service company or system;
- To comply with a requirement imposed on the merchant by state or federal law;
- To provide to a check services company; or
- To complete a transaction permitted under the Gramm-Leach-Bliley Act, (15 U.S.C. § 6801 et seq.), or the federal Fair Credit Reporting Act