

EPIC-MD-SB712-Mar2022.pdf

Uploaded by: Caitriona Fitzgerald

Position: FAV

March 16, 2022

The Honorable Delores G. Kelley, Chair
Senate Finance Committee, Maryland State Senate
Miller Senate Office Building, 3 East Wing
11 Bladen Street
Annapolis, MD 21401 - 1991

Dear Chair Kelley and Vice-Chair Feldman:

EPIC writes in support of Senate Bill 712: Prohibition of Scanning or Swiping Identification Cards and Driver's Licenses.

EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC is a leading advocate for civil liberties and democratic values in the information age, and works closely with a distinguished Advisory Board. EPIC has filed several amicus briefs urging federal courts to protect drivers' privacy.¹

Far more needs to be done to safeguard the personal information American consumers. Harmful data breaches have become commonplace for American consumers and action must be taken to prevent future breaches and to protect consumers in the event of a data breach.

Passage of SB712 would be an important step towards protecting Maryland residents from the risks of data breach. The best defense against data breaches is not collecting and retaining personal data in the first place. The reasonable restrictions against the scanning or swiping of identification cards and drivers licenses proposed in this bill will reduce the amount of sensitive personal data stored by companies, thus reducing the risk of data breaches.

EPIC looks forward to working with the Committee on these issues of vital importance to Marylanders.

Sincerely,

/s/ Caitriona Fitzgerald

Caitriona Fitzgerald
EPIC Deputy Director

¹ See, e.g., *McDonough v. Anoka County*, 799 F.3d 931 (8th Cir. 2015); *Maracich v. Spears*, 133 S. Ct. 2191 (2013); *Reno v. Condon*, 528 U.S. 141 (2000); *Gordon v. Softech Int'l Inc.*, 726 F.3d 42 (2d Cir. 2013); *Kehoe v. Fidelity Fed. Bank & Trust*, 421 F.3d 1209 (11th Cir. 2005).

testimony2022sb712ltr.pdf

Uploaded by: Franz Schneiderman

Position: FAV



**Testimony to the Senate Finance Committee
SB 712 – Consumer Protection --
Scanning or Swiping Identification Cards and Driver’s Licenses – Prohibition
Position: Favorable**

The Honorable Delores Kelley
Senate Finance Committee
3 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Senate Finance Committee

March 16, 2022

Honorable Chair Kelley and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a nonprofit group that works for safety, transparency, and fair treatment for Maryland drivers and car buyers.

Consumer Auto supports **SB 712** because it will provide important new protections to the privacy of the data stored on driver’s licenses and ID cards. These protections are critical in a world where both identity theft and data breaches, even from what are supposed to be highly sophisticated financial firms, have become only too commonplace.

Identity theft affects millions of consumers each year. And because our driver’s licenses contain all kinds of valuable personal information about us – including our full name, Social Security number, signature, picture, height and weight, address, and date of birth, the practice of routinely checking and scanning our licenses and IDs creates many opportunities for fraudsters to filch our basic identity data. Yet it has become common for consumers to have their doctors, merchants, service providers, even their local pubs insist on seeing and scanning our ID’s or licenses before providing routine services. And a quick search on the web shows that all kinds of companies are eagerly marketing inexpensive scanning devices that tout their ability to store the personal information of thousands of customers.

This practice puts our privacy and basic data security at obvious risk. And while some merchants, medical offices, and other businesses may need to see or scan your license to verify your identity, very few of them need to glean or store more than the most basic information about you.

SB 712 properly restricts the right to collect, store and sell such information to those who need to do so to verify the age or identity of a customer, enforce the law, prevent fraud, and conduct financial transactions. And rightly classifies a violation of that rule as an unfair, abusive or deceptive trade practice under Maryland law.

We support SB 712 and ask the committee to give it a FAVORABLE report.

Sincerely,

Franz Schneiderman
Consumer Auto

SB712 MCRC Testimony 2022.pdf

Uploaded by: Isadora Stern

Position: FAV

Testimony to the Senate Finance Committee
SB712: Consumer Protection – Scanning Identification Cards and Driver's Licenses – Prohibition
Position: Favorable

March 16, 2022

Senator Kelley, Chair
Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, Maryland 21401
Cc: Members, Senate Finance Committee

Honorable Chair Kelley and Members of the Committee:

The Maryland Consumer Rights Coalition is a statewide coalition of individuals and organizations that advances financial justice and economic inclusion for Maryland consumers through research, education, direct service, and advocacy. Our 8,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

MCRC is in support of SB 712.

A common practice among businesses in Maryland is to require ID of consumers who are returning a purchase – even when they have a valid receipt. Businesses then scan the ID, which allows the business to record personal and non-pertinent information about the consumer. In our internet-centric society, that personal data is easily converted into money for the business through data sales and potential woes for the consumer. Businesses should not require that consumers forgo their right to privacy in order to complete a basic transaction.

SB 712 is a simple fix to a problem that has the potential to grow exponentially as Big Data continues to monetize personal information. By restricting the scanning of licenses except when legally mandated or logistically necessary, this bill turns off the faucet of private data pouring into corporate bank accounts. Twelve states have already passed similar laws; Maryland should extend the same consumer privacy protections to residents of our state.

For all these reasons, we support SB 712 and urge a favorable report.

Best,
Marceline White
Executive Director

Overview State Laws - ID Swiping.pdf

Uploaded by: Sen. Cheryl Kagan

Position: FAV

CHERYL C. KAGAN
Legislative District 17
Montgomery County

Vice Chair
Education, Health, and
Environmental Affairs Committee

Joint Audit Committee
Joint Committee on Federal Relations



Miller Senate Office Building
11 Bladen Street, Suite 2 West
Annapolis, Maryland 21401
301-858-3134 · 410-841-3134
800-492-7122 Ext. 3134
Fax 301-858-3665 · 410-841-3665
Cheryl.Kagan@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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

SB712_ Restrictions on Scanning or Swiping Driver

Uploaded by: Sen. Cheryl Kagan

Position: FAV

CHERYL C. KAGAN
Legislative District 17
Montgomery County



Miller Senate Office Building
11 Bladen Street, Suite 2 West
Annapolis, Maryland 21401
301-858-3134 · 410-841-3134
800-492-7122 Ext. 3134
Fax 301-858-3665 · 410-841-3665
Cheryl.Kagan@senate.state.md.us

Vice Chair
Education, Health, and
Environmental Affairs Committee

Joint Audit Committee
Joint Committee on Federal Relations

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB712: Consumer Protection – Restrictions on Scanning or Swiping Driver’s Licenses

Senate Finance Committee

Wednesday, March 16, 2022 | 1pm

“A driver’s license is an identity thief’s paradise.” - Credit reporting giant, [Experian](#).

Twelve other states (*both red and blue*) have enacted reasonable consumer privacy legislation with regard to swiping our driver’s licenses: California (2015), Florida (2016), Georgia (2010), Hawaii (2012), Nebraska (2010), New Hampshire (2003), New Jersey (2017), Oregon (2015), Ohio (2015), Rhode Island (2004), Texas (2010), and Virginia (2020).

[SB712](#) would protect our private information, except in limited circumstances (see attached), by prohibiting the swiping of our driver's licenses (or MVA-issued identification cards). This is not a new bill. In 2019, [SB490](#) unanimously passed the Senate ([45-0](#)).

Why is this important? Our driver’s licenses have always included personal information such as birthdate, home address, height, weight, signature, photograph, etc. With the new *Real ID* driver’s license, even more [sensitive data](#) including fingerprints, biometric information, facial recognition templates, medical information, and court-ordered restrictions will be vulnerable.

Too many businesses are swiping our driver’s licenses. Whether the reasoning is justifiable or frivolous, we have no knowledge or control over how they may exploit or sell our personal information. And, we are all too familiar with security breaches.

Cybersecurity experts, such as [Risk Enterprise Management](#), say that collecting and storing driver’s license information puts consumers at significant risk for identity theft. Hacking has become extremely common, and cyberattacks are on the rise. In 2021, there were over [1,291 exposures](#) of personal data, including Android (100+ million people); Facebook (553 million users); and LinkedIn (700 million/93% of users). [IdentityForce found](#) that companies such as T-Mobile, CVS, and GEICO have experienced large-scale cyberattacks in the past year.

The best defense against a data breach is not collecting and storing the information in the first place! I urge a favorable report on SB712.

(Attachment)

SB712: Prohibitions and Allowances for Scanning Driver's Licenses (AS AMENDED)

Driver's Licenses (or MVA-issued ID's) MAY NOT be scanned:

- To obtain personally-identifying information beyond the basic (name, address, DOB, driver's license number);
- Nongovernmental entities:
 - Shall not retain data after an individual is no longer liable to/doing business with a company
 - May be civilly liable for unauthorized use of data
- For sale or transfer of any personal data collected.

Driver's Licenses (or MVA-issued ID's) MAY be scanned:

- As required by law;
- To verify age in limited circumstances:
 - Purchase of pseudoephedrine product or ephedrine product;
 - Purchase of alcohol;
 - Admission to premises restricted to persons 21 or older; and
 - Purchase of nicotine products.
- To transmit ID or driver's license number to a check service company for:
 - Approving/administering electronic fund transfers; or
 - Preventing fraud/criminal activity.
- A law enforcement officer acting on official duties; or
- In connection with deposit accounts, loans, or other financial instruments requested by the consumer.

2022-03-16 SB 712 Letter of Support.pdf

Uploaded by: Steven Sakamoto-Wengel

Position: FAV

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
(410) 576-6307

March 16, 2022

TO: The Honorable Delores G. Kelley, Chair
Senate Finance Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: Senate Bill 712 – Consumer Protection – Scanning or Swiping Identification
Cards and Driver's Licenses - Prohibition – SUPPORT

The Consumer Protection Division of the Office of the Attorney General supports Senate Bill 712, sponsored by Senator Kagan, which would prohibit a person from using a scanning device or card reader to collect information from an individual's driver's license or identification card, unless the person has a legitimate reason for collecting that information. The bill would also prohibit the person from retaining or selling information from an individual's license or identification card. Driver's licenses and identification cards contain significant personal information about an individual – information that can be used for identity theft or other nefarious purposes. Especially in light of the rash of data breaches, there is no reason why someone should collect and retain that personal information unless they have a legitimate reason for collecting such information as set forth in the bill.

Here is the experience of one of the Consumer Protection Division's employees:

A senior apartment community in Baltimore City invited me to conduct a scams presentation for their residents. The security guard asked to see my ID—the operative word here is “see.” The guard quickly scanned my driver's license before I could object to it. In an instant, my privacy was gone.

I had no idea what data they were collecting, how they were storing it, who had access to this data about me, how long they would store it or what they were doing with my personal data. There was no posted notice alerting visitors about the apartment

The Honorable Delores G. Kelley

Senate Bill 712

March 16, 2022

Page Two

complex's ID scanning policy. There was no written privacy policy or any information about their data collection policy. No one asked for my consent or even informed me that my license would be scanned beforehand. I successfully challenged the apartment management to have my data removed from their system. While I was lucky, the average person cannot convince these organizations to delete their data, once it has been collected.

The Division believes that Senate Bill 712 is a reasonable measure that helps protect individuals' personal information against misuse and recommends that the Finance Committee issue a favorable report.

cc: Members, Senate Finance Committee
The Honorable Cheryl Kagan