

**ANTHONY G. BROWN**  
*Attorney General*



**CANDACE MCLAREN LANHAM**  
*Chief of Staff*

**CAROLYN A. QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.  
(410) 576-7036

WRITER'S DIRECT DIAL NO.  
(410) 576-6584

March 15, 2023

**TO:** The Honorable Melony Griffith  
Chair, Finance Committee

**FROM:** Devyn King  
Law Clerk

**RE:** SB 0861 – Consumer Protection – Scanning or Swiping Identification Cards  
and Driver's Licenses – Prohibition (**SUPPORT**)

---

The Office of the Attorney General urges a favorable report on Senate Bill 861. Senator Kagan's bill seeks to protect the privacy of Maryland residents by prohibiting a person from scanning an individual's identification card or driver's license to collect personal information, unless that person has a legitimate reason for doing so. The bill will also prevent the storage or sale of data collected from an individual's identification card or driver's license.

Merchants, healthcare providers, office buildings, and other service providers frequently insist on scanning an individual's identification card or driver's license before providing their services or allowing entry. Many businesses and offices utilize scanning to verify the identity of those entering their buildings.<sup>1</sup> Retail stores will often scan a consumer's identification card or driver's license when returning a purchase—even with a valid receipt—and track the consumer's data and patterns of making returns.<sup>2</sup>

Certainly, some establishments have specialized security needs, or require a scan in order to comply with various legal requirements, and the bill provides exceptions to the prohibition for these needs. However, for most companies, verification of age or identity can easily be

---

<sup>1</sup> Nina Pineda, *Is Your Driver's License Making You Vulnerable to Identity Theft?*, WABC-TV (Jun. 16, 2015), <https://abc7ny.com/7-on-your-side-id-theft-identity-drivers-license/720583/>.

<sup>2</sup> *Returns, Driver's Licenses and The Retail Equation*, PRIVACYRIGHTS.ORG (Jun. 27, 2019), <https://privacyrights.org/resources/returns-drivers-licenses-and-retail-equation#:~:text=Stores%20will%20often%20ask%20you,of%20return%20fraud%20or%20abuse.>

accomplished by a manual, visual check, rather than a scan.<sup>3</sup> Additionally, there are safer alternatives to record-keeping that do not present as much of a risk to consumer privacy.<sup>4</sup>

Increasingly, scammers can use *any* data available—including that obtained from an identification card or driver’s license—to commit fraud.<sup>5</sup> The implementation of Real ID has increased the risk associated with scanning identification cards, as it has created a national database with copies of birth certificates, Social Security cards, and other important documents.<sup>6</sup> In recent years, healthcare facilities and retailers have been targets of some of the largest data breaches, putting stored identification card and driver’s license information at risk.<sup>7</sup> Therefore, it is imperative that Maryland follow the lead of the twelve other states that have passed similar laws, and protect consumers’ data by preventing the unnecessary collection of data in the first place.

For the foregoing reasons, the Office of the Attorney General urges a favorable report on Senate Bill 861.

cc: Members of the Finance Committee

---

<sup>3</sup> *ID Capture: Do’s and Don’t’s*, THE RECEPTIONIST, <https://thereceptionist.com/blog/id-capture-dos-and-donts/?nab=0>.

<sup>4</sup> *Id.*

<sup>5</sup> *An On-the-Ground Look at Consumer Impacts of Data Breaches: Speech at the National Academies of Sciences Forum*, PRIVACYRIGHTS.ORG (Jan. 12, 2016), <https://privacyrights.org/resources/ground-look-consumer-impacts-data-breaches-speech-national-academies-sciences-forum>.

<sup>6</sup> *Real ID Act Will Increase Exposure to ID Theft*, PRIVACYRIGHTS.ORG (Feb. 28, 2007), <https://privacyrights.org/resources/real-id-act-will-increase-exposure-id-theft>.

<sup>7</sup> See IDENTITYFORCE, *2021 Data Breaches*, <https://www.identityforce.com/blog/2021-data-breaches>; *2022 Data Breaches*, <https://www.identityforce.com/blog/2022-data-breaches>.