

**A-Engrossed**  
**House Bill 2371**

Ordered by the House April 8  
Including House Amendments dated April 8

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection for American Civil Liberties Union)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Restricts situations in which private **and governmental** entities may [*read*] **swipe** or store information [*that is electronically retrieved*] from individual's driver license, driver permit or identification card.

**A BILL FOR AN ACT**

1  
2 Relating to privacy of identification documents.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. The Legislative Assembly finds that:**

5 (1) **Oregon recognizes the importance of protecting the confidentiality and privacy of an**  
6 **individual's personal information contained in driver licenses, driver permits and identifica-**  
7 **tion cards.**

8 (2) **Machine-readable features found on driver licenses, driver permits and identification**  
9 **cards are intended to facilitate verification of age or identity, not to facilitate collection of**  
10 **personal information about individuals nor to facilitate the creation of private databases of**  
11 **transactional information associated with those individuals.**

12 (3) **Easy access to the information found on driver licenses, driver permits and identifi-**  
13 **cation cards facilitates the crime of identity theft, which is a major concern in Oregon.**

14 **SECTION 2. (1) As used in this section:**

15 (a) **"Driver license" means a license or permit issued by this state or any other juris-**  
16 **isdiction as evidence of a grant of driving privileges.**

17 (b) **"Identification card" means the card issued under ORS 807.400 or a comparable pro-**  
18 **vision in another state.**

19 (c) **"Personal information" means an individual's name, address, date of birth, photo-**  
20 **graph, fingerprint, biometric data, driver license or identification card number or any other**  
21 **unique personal identifier or number.**

22 (d) **"Private entity" means any nongovernmental entity, such as a corporation, partner-**  
23 **ship, company or nonprofit organization, any other legal entity or any natural person.**

24 (e) **"Swipe" means the act of passing a driver license or identification card through a**  
25 **device that is capable of deciphering, in an electronically readable format, the information**  
26 **electronically encoded in a magnetic strip or bar code on the driver license or identification**  
27 **card.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **(2) A private entity may not swipe an individual’s driver license or identification card,**  
2 **except for the following purposes:**

3       **(a) To verify the authenticity of a driver license or identification card or to verify the**  
4 **identity of the individual if the individual pays for a good or service with a method other than**  
5 **cash, returns an item or requests a refund.**

6       **(b) To verify the individual’s age when providing an age-restricted good or service to any**  
7 **person about whom there is any reasonable doubt of the person’s having reached 21 years**  
8 **of age.**

9       **(c) To prevent fraud or other criminal activity if an individual returns an item or re-**  
10 **quests a refund and the private entity uses a fraud prevention service company or system.**

11       **(d) To transmit information to a check services company for the purpose of approving**  
12 **negotiable instruments, electronic funds transfers or similar methods of payment.**

13       **(3) A private entity that swipes an individual’s driver license or identification card under**  
14 **subsection (2)(a) or (b) of this section may not store, sell or share personal information col-**  
15 **lected from swiping the driver license or identification card.**

16       **(4) A private entity that swipes an individual’s driver license or identification card under**  
17 **subsection (2)(c) or (d) of this section may store or share the name, address, date of birth,**  
18 **driver license number or identification card number collected from swiping the driver license**  
19 **or identification card for the purpose of preventing fraud or other criminal activity against**  
20 **the private entity.**

21       **(5) A person who receives personal information from a private entity under subsection**  
22 **(4) of this section may use the personal information received only to prevent fraud or other**  
23 **criminal activity against the private entity that provided the personal information.**

24       **(6) A governmental entity may swipe an individual’s driver license or identification card**  
25 **only if:**

26       **(a) The individual knowingly makes the driver license or identification card available to**  
27 **the governmental entity;**

28       **(b) The governmental entity lawfully confiscates the driver license or identification card;**  
29 **or**

30       **(c) The governmental entity is providing emergency assistance to the individual who is**  
31 **unconscious or otherwise unable to make the driver license or identification card available.**

32       **(7) In addition to any other remedy provided by law, an individual may bring an action**  
33 **to recover actual damages or \$1,000, whichever is greater, and to obtain equitable relief, if**  
34 **equitable relief is available, against an entity that swipes, stores, shares, sells or otherwise**  
35 **uses the individual’s personal information in violation of this section. A court shall award a**  
36 **prevailing plaintiff reasonable costs and attorney fees. If a court finds that a violation of this**  
37 **section was willful or knowing, the court may increase the amount of the award to no more**  
38 **than three times the amount otherwise available.**

39       **(8) Any waiver of a provision of this section is contrary to public policy and is void and**  
40 **unenforceable.**