A-Engrossed

House Bill 2411

Ordered by the House February 20
Including House Amendments dated February 20

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Business and Labor for NW Credit Union Association)

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.

[*Allows financial institutions, after obtaining person's permission, to swipe person's driver license or identification card for purpose of establishing or maintaining contract or account.*]
Allows financial institution to swipe identification card or driver license to collect information about individual for purpose of processing application for deposit account or loan for individual.

1   **A BILL FOR AN ACT**

2   Relating to swiping documents issued by the Department of Transportation; amending ORS 807.750.

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

4   **SECTION 1.** ORS 807.750 is amended to read:

5   807.750. (1) As used in this section:

6   (a) "Driver license" means a license or permit issued by this state or any other jurisdiction as

7   evidence of a grant of driving privileges.

8   **(b) "Financial institution" has the meaning given that term in ORS 706.008.**

9   [*(b)*] **(c)** "Identification card" means the card issued under ORS 807.400 or a comparable pro-

10   vision in another state.

11   [*(c)*] **(d)** "Personal information" means an individual's name, address, date of birth, photograph,

12   fingerprint, biometric data, driver license number, identification card number or any other unique

13   personal identifier or number.

14   [*(d)*] **(e)** "Private entity" means any nongovernmental entity, such as a corporation, partnership,

15   company or nonprofit organization, any other legal entity or any natural person.

16   [*(e)*] **(f)** "Swipe" means the act of passing a driver license or identification card through a device

17   that is capable of deciphering, in an electronically readable format, the information electronically

18   encoded in a magnetic strip or bar code on the driver license or identification card.

19   (2) Except as provided in subsection (6) of this section, a private entity may not swipe an

20   individual's driver license or identification card, except for the following purposes:

21   (a) To verify the authenticity of a driver license or identification card or to verify the identity

22   of the individual if the individual pays for a good or service with a method other than cash, returns

23   an item or requests a refund.

24   (b) To verify the individual's age when providing an age-restricted good or service to any person

25   about whom there is any reasonable doubt of the person's having reached 21 years of age.

26   (c) To prevent fraud or other criminal activity if an individual returns an item or requests a

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 refund and the private entity uses a fraud prevention service company or system.

2 (d) To transmit information to a check services company for the purpose of approving negotiable

3 instruments, electronic funds transfers or similar methods of payment.

4 **(e) To collect information about the individual for the purpose of processing an applica-**

5 **tion for a deposit account or loan for the individual, if the private entity is a financial insti-**

6 **tution.**

7 (3) A private entity that swipes an individual's driver license or identification card under sub-

8 section (2)(a) or (b) of this section may not store, sell or share personal information collected from

9 swiping the driver license or identification card.

10 (4) A private entity that swipes an individual's driver license or identification card under sub-

11 section (2)(c) or (d) of this section may store or share the following information collected from

12 swiping an individual's driver license or identification card for the purpose of preventing fraud or

13 other criminal activity against the private entity:

14 (a) Name;

15 (b) Address;

16 (c) Date of birth; and

17 (d) Driver license number or identification card number.

18 (5)(a) A person other than an entity regulated by the federal Fair Credit Reporting Act, 15

19 U.S.C. 1681 et seq., who receives personal information from a private entity under subsection (4) of

20 this section may use the personal information received only to prevent fraud or other criminal ac-

21 tivity against the private entity that provided the personal information.

22 (b) A person who is regulated by the federal Fair Credit Reporting Act and who receives per-

23 sonal information from a private entity under subsection (4) of this section may use or provide the

24 personal information received only to effect, administer or enforce a transaction or prevent fraud

25 or other criminal activity, if the person provides or receives personal information under contract

26 from the private entity.

27 (6)(a) Subject to the provisions of this subsection, a private entity that is a commercial radio

28 service provider that provides service nationally and that is subject to the Telephone Records and

29 Privacy Protection Act of 2006 (18 U.S.C. 1039) may swipe an individual's driver license or identifi-

30 cation card if the entity obtains permission from the individual to swipe the individual's driver li-

31 cense or identification card.

32 (b) The private entity may swipe the individual's driver license or identification card only for

33 the purpose of establishing or maintaining a contract between the private entity and the individual.

34 Information collected by swiping an individual's driver license or identification card for the estab-

35 lishment or maintenance of a contract shall be limited to the following information from the indi-

36 vidual:

37 (A) Name;

38 (B) Address;

39 (C) Date of birth; and

40 (D) Driver license number or identification card number.

41 (c) If the individual does not want the private entity to swipe the individual's driver license or

42 identification card, the private entity may manually collect the following information from the indi-

43 vidual:

44 (A) Name;

45 (B) Address;

1   (C) Date of birth; and

2   (D) Driver license number or identification card number.

3   (d) The private entity may not withhold the provision of goods or services solely as a result of

4 the individual requesting the collection of the following information from the individual through

5 manual means:

6   (A) Name;

7   (B) Address;

8   (C) Date of birth; and

9   (D) Driver license number or identification card number.

10   (7) A governmental entity may swipe an individual's driver license or identification card only

11 if:

12   (a) The individual knowingly makes the driver license or identification card available to the

13 governmental entity;

14   (b) The governmental entity lawfully confiscates the driver license or identification card;

15   (c) The governmental entity is providing emergency assistance to the individual who is uncon-

16 scious or otherwise unable to make the driver license or identification card available; or

17   (d) A court rule requires swiping of the driver license or identification card to facilitate accu-

18 rate linking of court records pertaining to the individual.

19   (8) In addition to any other remedy provided by law, an individual may bring an action to re-

20 cover actual damages or $1,000, whichever is greater, and to obtain equitable relief, if equitable

21 relief is available, against an entity that swipes, stores, shares, sells or otherwise uses the

22 individual's personal information in violation of this section. A court shall award a prevailing

23 plaintiff reasonable costs and attorney fees. If a court finds that a violation of this section was

24 willful or knowing, the court may increase the amount of the award to no more than three times the

25 amount otherwise available.

26   (9) Any waiver of a provision of this section is contrary to public policy and is void and

27 unenforceable.

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