

# DRAFT

## SUMMARY

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.

### A BILL FOR AN ACT

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

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

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

807.750. (1) As used in this section:

(a) “Driver license” means a license or permit issued by this state or any other jurisdiction as evidence of a grant of driving privileges.

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

[(b)] (c) “Identification card” means the card issued under ORS 807.400 or a comparable provision in another state.

[(c)] (d) “Personal information” means an individual’s name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number or any other unique personal identifier or number.

[(d)] (e) “Private entity” means any nongovernmental entity, such as a corporation, partnership, company or nonprofit organization, any other legal entity or any natural person.

[(e)] (f) “Swipe” means the act of passing a driver license or identification

1 card through a device that is capable of deciphering, in an electronically  
2 readable format, the information electronically encoded in a magnetic strip  
3 or bar code on the driver license or identification card.

4 (2) Except as provided in subsection (6) of this section, a private entity  
5 may not swipe an individual's driver license or identification card, except for  
6 the following purposes:

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

10 (b) To verify the individual's age when providing an age-restricted good  
11 or service to any person about whom there is any reasonable doubt of the  
12 person's having reached 21 years of age.

13 (c) To prevent fraud or other criminal activity if an individual returns  
14 an item or requests a refund and the private entity uses a fraud prevention  
15 service company or system.

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

19 **(e) To collect information about the individual for the purpose of**  
20 **processing an application for a deposit account or loan for the indi-**  
21 **vidual, if the private entity is a financial institution.**

22 (3) A private entity that swipes an individual's driver license or identifi-  
23 cation card under subsection (2)(a) or (b) of this section may not store, sell  
24 or share personal information collected from swiping the driver license or  
25 identification card.

26 (4) A private entity that swipes an individual's driver license or identifi-  
27 cation card under subsection (2)(c) or (d) of this section may store or share  
28 the following information collected from swiping an individual's driver li-  
29 cense or identification card for the purpose of preventing fraud or other  
30 criminal activity against the private entity:

31 (a) Name;

1 (b) Address;

2 (c) Date of birth; and

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

4 (5)(a) A person other than an entity regulated by the federal Fair Credit  
5 Reporting Act, 15 U.S.C. 1681 et seq., who receives personal information from  
6 a private entity under subsection (4) of this section may use the personal  
7 information received only to prevent fraud or other criminal activity against  
8 the private entity that provided the personal information.

9 (b) A person who is regulated by the federal Fair Credit Reporting Act  
10 and who receives personal information from a private entity under sub-  
11 section (4) of this section may use or provide the personal information re-  
12 ceived only to effect, administer or enforce a transaction or prevent fraud  
13 or other criminal activity, if the person provides or receives personal infor-  
14 mation under contract from the private entity.

15 (6)(a) Subject to the provisions of this subsection, a private entity that  
16 is a commercial radio service provider that provides service nationally and  
17 that is subject to the Telephone Records and Privacy Protection Act of 2006  
18 (18 U.S.C. 1039) may swipe an individual's driver license or identification  
19 card if the entity obtains permission from the individual to swipe the  
20 individual's driver license or identification card.

21 (b) The private entity may swipe the individual's driver license or iden-  
22 tification card only for the purpose of establishing or maintaining a contract  
23 between the private entity and the individual. Information collected by  
24 swiping an individual's driver license or identification card for the estab-  
25 lishment or maintenance of a contract shall be limited to the following in-  
26 formation from the individual:

27 (A) Name;

28 (B) Address;

29 (C) Date of birth; and

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

31 (c) If the individual does not want the private entity to swipe the

1 individual's driver license or identification card, the private entity may  
2 manually collect the following information from the individual:

3 (A) Name;

4 (B) Address;

5 (C) Date of birth; and

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

7 (d) The private entity may not withhold the provision of goods or services  
8 solely as a result of the individual requesting the collection of the following  
9 information from the individual through manual means:

10 (A) Name;

11 (B) Address;

12 (C) Date of birth; and

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

14 (7) A governmental entity may swipe an individual's driver license or  
15 identification card only if:

16 (a) The individual knowingly makes the driver license or identification  
17 card available to the governmental entity;

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

20 (c) The governmental entity is providing emergency assistance to the in-  
21 dividual who is unconscious or otherwise unable to make the driver license  
22 or identification card available; or

23 (d) A court rule requires swiping of the driver license or identification  
24 card to facilitate accurate linking of court records pertaining to the indi-  
25 vidual.

26 (8) In addition to any other remedy provided by law, an individual may  
27 bring an action to recover actual damages or \$1,000, whichever is greater,  
28 and to obtain equitable relief, if equitable relief is available, against an en-  
29 tity that swipes, stores, shares, sells or otherwise uses the individual's per-  
30 sonal information in violation of this section. A court shall award a  
31 prevailing plaintiff reasonable costs and attorney fees. If a court finds that

1 a violation of this section was willful or knowing, the court may increase  
2 the amount of the award to no more than three times the amount otherwise  
3 available.

4 (9) Any waiver of a provision of this section is contrary to public policy  
5 and is void and unenforceable.

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