



SPONSOR: Sen. Pettyjohn
Sen. Hansen; Reps. Brady, Wilson

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 255

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO SCANNING INFORMATION FROM DRIVER'S LICENSE OR IDENTIFICATION CARD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Subchapter I, Chapter 25 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows:

3 § 2510A. Limitations on the use of information scanned from driver's license or identification card.

4 (a) For purposes of this section, "merchant" means a retail establishment engaged in the business of selling or
5 exchanging merchandise, as defined in § 2511(6) of this title, in exchange for cash, credit, barter, or other form of
6 consideration.

7 (b) A merchant may not scan the machine-readable zone of an identification card or driver's license issued by the
8 Division of Motor Vehicles, except for the following purposes:

9 (1) To verify authenticity of the identification card or driver's license or to verify the identity of the individual
10 if the individual pays for the goods or services with a method other than cash, returns an item, or requests a refund or
11 exchange.

12 (2) To verify the individual's age when providing age-restricted goods or services to the individual.

13 (3) To prevent fraud or other unlawful activity if the individual returns an item or requests a refund or an
14 exchange and the merchant uses a fraud prevention service company or system. Information collected by scanning an
15 individual's identification card or driver's license pursuant to this subsection shall be limited to the individual's name,
16 address, date of birth, and driver's license number or identification number.

17 (4) To comply with a requirement imposed on the merchant by state or federal law, rule, or regulation.

18 (5) To provide the information obtained from the scan to a check services company regulated by the Fair
19 Credit Reporting Act (15 U.S.C. § 1681, et seq.) in order to administer or enforce a transaction or to prevent fraud or
20 other unlawful activity.

(6) To complete a transaction permitted under the Gramm-Leach-Bliley Act, (15 U.S.C. § 6801, *et seq.*, as amended), the Fair Credit Reporting Act (15 U.S.C. § 1681, *et seq.*, as amended), or the Fair Debt Collection Practices Act (15 U.S.C. § 1692, *et seq.*, as amended).

(c) No merchant shall retain any information obtained from a scan of the machine-readable zone of an individual's identification card or driver's license except as provided in paragraphs (3)-(6) of subsection (b) of this section.

(d) No merchant shall sell or disseminate to a third party any information obtained from a scan of the machine-readable zone of an individual's identification card or driver's license. This subsection shall not prohibit a merchant from disseminating to a third party any such information for a purpose described in paragraphs (3)-(6) of subsection (b) of this section.

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

(f)(1) A private cause of action shall be available to any victim of a violation of this section, and in such cause of action any merchant who knowingly or intentionally commits an act in violation of subsections (b)-(d) of this section may be subject to a civil penalty of up to \$2,500 for a first violation and up to \$5,000 for any subsequent violations.

(2) The Consumer Protection Unit of the Department of Justice also has enforcement authority over this section and may investigate and prosecute violations of this section in accordance with the provisions of Subchapter II of Chapter 25 of Title 29 of the Delaware Code

SYNOPSIS

This Act prohibits the use and dissemination of information obtained from the machine readable zone of a driver's license or identification card issued by the Division of Motor Vehicles, with limited exceptions. This Act seeks to protect members of the public at large from having their personal information used for purposes other than those enumerated in this act. Various states have taken similar action to protect the personal information of citizens. This Act is modeled after legislation that was passed in Virginia.

The Act is substituted for Senate Bill No. 255 and differs from Senate Bill No. 255 by (1) moving the legislation to Subchapter I (General Provisions) of Chapter 25 (Prohibited Trade Practices) of Title 6 of the Delaware Code; (2) providing a definition for the term "merchant"; (3) correcting the name of the Division of Motor Vehicles; (4) clarifying the existence of both a private cause of action and enforcement authority by the Department of Justice's Consumer Protection Unit; (5) changing the term "criminal activity" to "unlawful activity" wherever it appears; (6) clarifying the Act's language relating to check services companies; and (7) making technical corrections to conform the Act to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Pettyjohn