

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1357 Information Technology

**SPONSOR(S):** Appropriations Committee; Oversight, Transparency & Administration; Grant, J.; Toledo and others

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N, As CS	Toliver	Harrington
2) Appropriations Committee	25 Y, 0 N, As CS	Mullins	Leznoff
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The bill makes changes to the law relating to a digital proof of driver license. Specifically, the bill:

- Changes the term “digital proof of driver license” to “electronic credential”.
- Authorizes Department of Highway Safety and Motor Vehicles (DHSMV) to issue optional electronic credentials to persons who hold a Florida driver license or identification card.
- Requires the DHSMV to develop and implement secure and uniform protocols which comply with national standards for issuing an optional electronic credential.
- Requires DHSMV to competitively procure a technology solution for issuing an electronic credential using a revenue sharing model.
- Requires DHSMV to competitively procure one or more electronic credential providers to develop and implement a secure electronic credential system.
- Requires the electronic credential and verification solution to have certain technical capabilities.
- Requires DHSMV to process requests by private entities to access an application programming interface necessary to consume an electronic credential.
- Authorizes DHSMV to assess a fee for use of the electronic credential and verification solution.
- Requires DHSMV to provide a standard digital transaction process for electronic credential providers to direct payments to the department at the point of sale.
- Requires that revenue generated from the use of the electronic credential system be collected by the department and distributed pursuant to legislative appropriation and department agreements with electronic credential providers.
- Provides that any revenue shared between the state and electronic credential providers shall be based solely on revenues derived from the purchase of an electronic credential and may not be derived from any other transaction.
- Requires that the format of the electronic credential provide for verification of the identity of the credential holder and the status of any driving privileges associated with the electronic credential.
- Provides that presenting to a law enforcement officer an electronic device displaying an electronic credential does not constitute consent for the officer to access any additional information on the device other than the electronic credential. Additionally, the person presenting the device to the officer assumes liability resulting in any damage to the device.

The bill has an indeterminate fiscal impact on state government. See Fiscal Analysis.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Digital Driver Licenses**

###### Current Situation

Current law provides for the establishment of a digital proof of driver license. Specifically, current law requires the Department of Highway Safety and Motor Vehicles (DHSMV) to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license.<sup>1</sup> The statute authorizes DHSMV to contract with one or more private entities to develop a digital proof of driver license system.<sup>2</sup>

The digital proof of driver license developed by DHSMV or by an entity contracted by DHSMV is required to be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license.<sup>3</sup> DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.<sup>4</sup> A person may not be issued a digital proof of driver license until he or she has satisfied all of the statutory requirements relating to the issuance of a physical driver license.<sup>5</sup>

Current law also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license.<sup>6</sup> Specifically, a person who:

- Manufactures a false digital proof of driver license commits a felony of the third degree, punishable by up to five years in prison,<sup>7</sup> a fine not to exceed \$5,000,<sup>8</sup> or under the habitual felony offender statute.<sup>9</sup>
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison.<sup>10</sup>

###### Effect of the Bill

###### *DHSMV Responsibilities*

The bill changes the term “digital proof of driver license” to “electronic credential”. The bill also revises DHSMV’s responsibilities relating to electronic credentials from preparing for its issuance to procuring related technology and electronic credential providers. Specifically the bill:

- Authorizes DHSMV to issue optional electronic credentials to persons who hold a Florida driver license or identification card.
- Requires DHSMV to develop and implement secure and uniform protocols which comply with national standards<sup>11</sup> for issuing an optional electronic credential.
- Requires DHSMV to competitively procure one or more electronic credential providers to develop and implement a secure electronic credential system.

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<sup>1</sup> Section 322.032(1), F.S.

<sup>2</sup> Section 322.032(2), F.S.

<sup>3</sup> *Id.*

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

<sup>5</sup> Section 322.032(3), F.S.

<sup>6</sup> Section 322.032(4), F.S.

<sup>7</sup> Section 775.082, F.S.

<sup>8</sup> Section 775.083, F.S.

<sup>9</sup> Section 775.084, F.S.

<sup>10</sup> Section 775.082, F.S.

<sup>11</sup> A national standard for an electronic credential is currently in development by the American Association of Motor Vehicle Administrators (AAMVA).

- Requires the electronic credential and verification solution to have certain technical capabilities.
- Requires that the format of the electronic credential provide for verification of the identity of the credential holder and the status of any driving privileges associated with the electronic credential.
- Requires DHSMV to process requests by private entities to access an application programming interface necessary to consume an electronic credential.
- Authorizes DHSMV to assess a fee for use of the electronic credential and verification solution.

#### *Revenue Sharing*

The bill requires DHSMV to competitively procure a technology solution for issuing an electronic credential and specifies the use of a revenue sharing model for this solution with certain provisions. Specifically, the bill:

- Requires DHSMV to provide a standard digital transaction process to electronic credential providers that directs payments to the department at the point of sale.
- Requires that revenue generated from the use of the electronic credential system be collected by the department and distributed pursuant to legislative appropriation and department agreements with electronic credential providers.
- Provides that any revenue shared between the state and electronic credential providers shall be based solely on revenues derived from the purchase of an electronic credential and may not be derived from any other transaction.

#### *Use of Electronic Credentials*

The bill requires DHSMV to enter into agreements with electronic credential providers that set forth permitted uses, terms and conditions, privacy policy, and terms relating to the consumption of electronic credentials.

The bill also provides that presenting to a law enforcement officer an electronic device displaying an electronic credential does not constitute consent for the officer to access any additional information on the device other than the electronic credential. Additionally, the person presenting the device to the officer assumes liability resulting in any damage to the device.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 322.01, F.S., by creating definitions for “electronic”, “electronic credential”, “electronic credential holder”, “electronic credential provider”, “electronic credential system”, and “electronic device”.

Section 2 amends s. 322.032, F.S., by changing the term “digital proof of driver license” to “electronic credential”, revising DHSMV’s responsibilities relating to electronic credentials, and detailing the use of electronic credentials.

Section 3 amends s. 322.059, F.S., aligning terminology with changes made in s. 322.032, F.S.

Section 4 amends s. 322.143, F.S., aligning terminology with changes made in s. 322.032, F.S.

Section 5 amends s. 322.15, F.S., aligning terminology with changes made in s. 322.032, F.S.

Section 6 amends s. 322.61, F.S., aligning terminology with changes made in s. 322.032, F.S.

Section 7 provides an effective date of July 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes DHSMV to assess a fee for use of the electronic credential and verification solution. This authorization allows the department to apply a fee when verifying an electronic credential as is presently utilized when information is requested for verification on standard driver licenses pursuant to statute<sup>12</sup>.

The bill further provides authorization for revenue-sharing arrangements between the state and electronic credential providers. This applies solely to the optional transaction for purchasing an electronic credential. Only in these circumstances, revenues will be collected by the department at the point of sale and then distributed as necessary to a credential provider pursuant to an appropriation and department agreements.

While positive, the fiscal impacts of these provisions cannot be quantified and are indeterminate at this time.

#### 2. Expenditures:

The bill has an indeterminate impact on state expenditures relating to:

- the development and implementation of protocols and standards for issuing electronic credentials,
- the procurement of an electronic credential provider, and
- the processing of requests by private entities to access any application programming interface necessary to consume an electronic credential.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who wish to obtain an electronic credential will incur costs associated with its purchase, but the cost is unknown at this time.

An entity who contracts with DHSMV to produce an electronic credential would share revenues with the state when individuals purchase a credential. The positive impact of this provision is also unknown at this time.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

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<sup>12</sup> Section 322.20, F.S.  
STORAGE NAME: h1357c.APC  
DATE: 2/15/2018

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill removes the provision for DHSMV to adopt rules to ensure valid authentication of a digital proof of driver license by law enforcement. The bill provides instead that DHSMV adhere to protocols and national standards to ensure valid authentication of electronic credentials.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 14, 2018, the Appropriations Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the sections of the bill concerning the Agency for State Technology and s. 668.50, F.S. (the Uniform Electronic Transaction Act). It further delineated a competitive procurement process for issuing an electronic credential, as well as prescribed parameters for a revenue sharing model between the state and the private sector.

The analysis is drafted to the committee substitute as passed by the Appropriations Committee.