

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

SPONSOR(S): Government Accountability Committee; Appropriations Committee; Oversight, Transparency & Administration Subcommittee; 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	21 Y, 0 N, As CS	Toliver	Williamson

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 the 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 DHSMV to develop and implement secure and uniform protocols that comply with national standards for issuing an optional electronic credential.
- Requires DHSMV to procure competitively a technology solution from a credential service provider for issuing an electronic credential using a revenue sharing model.
- Requires DHSMV to procure competitively at least two but no more than five electronic credential providers to develop and implement an initial phase to provide a secure electronic credential system.
- Requires the electronic credential and verification solution to have certain technical capabilities.
- Requires DHSMV to timely process requests for access to an application programming interface to consume an electronic credential.
- Requires DHSMV to provide a standard digital transaction process for electronic credential providers to direct payments to DHSMV at the point of sale.
- Requires that revenue generated from the use of the electronic credential system be collected by DHSMV, deposited in the Motor Vehicle License Clearing Trust Fund, and distributed pursuant to legislative appropriation and department agreements with electronic credential providers.
- Provides that DHSMV may assess a competitive market rate fee structure for the use of the credential service providers for any qualified entity to obtain an electronic ID with the revenue being shared between the state and credential service provider. Such revenues must be deposited in the Motor Vehicle Licensing Clearing Trust Fund for distribution pursuant to DHSMV agreements with digital identity verifiers;
- Prohibits fees from being charged to any state court, state governmental entity, or law enforcement agency.
- 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.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1357e.GAC

DATE: 2/23/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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.¹ The statute authorizes DHSMV to contract with one or more private entities to develop a digital proof of driver license system.²

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.³ DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.⁴ 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.⁵

Current law also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license.⁶ 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,⁷ a fine not to exceed \$5,000,⁸ or under the habitual felony offender statute.⁹
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison¹⁰ and a fine not to exceed \$500.¹¹

Effect of the Bill

Electronic Credentials

The bill changes the term “digital proof of driver license” to “electronic credential.” The term “electronic credential” means an electronic representation of a physical driver license or identification card that is viewable on an electronic credential system capable of being verified and authenticated.

DHSMV Responsibilities

The bill 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 that comply with national standards¹² for issuing an optional electronic credential.

¹ Section 322.032(1), F.S.

² Section 322.032(2), F.S.

³ *Id.*

⁴ *Id.*

⁵ Section 322.032(3), F.S.

⁶ Section 322.032(4), F.S.

⁷ Section 775.082, F.S.

⁸ Section 775.083(1)(c), F.S.

⁹ Section 775.084, F.S.

¹⁰ Section 775.082, F.S.

¹¹ Section 775.083(1)(e), F.S.

¹² A national standard for an electronic credential is currently in development by the American Association of Motor Vehicle Administrators (AAMVA).

- Requires DHSMV to procure competitively a credential service provider¹³ to develop and implement a secure electronic credential system.¹⁴
- Requires qualified entities¹⁵ to have the technological capabilities necessary to integrate with the credential service provider.
- Requires DHSMV to maintain the protocols and national standards necessary for a digital verifier or an electronic credential provider to request authorized access to an application programming interface necessary for a qualified entity to consume an electronic ID.¹⁶
- 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 timely review requests for authorized access to an application programming interface.
- Authorizes DHSMV to assess a fee for use of the electronic credential and verification solution.

Use of Electronic Credentials

The bill requires DHSMV to enter into agreements with at least two but no more than five electronic credential providers to develop and implement an initial phase to provide a secure electronic credential system. The agreements must set forth permitted uses, terms and conditions, privacy policy, and uniform remittance terms relating to the consumption of electronic credentials. DHSMV must competitively procure the credential service provider prior to beginning the initial phase. Upon completion of the initial phase, DHSMV must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the continued implementation and tools necessary to scale future phases.

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.

Revenue Sharing

The bill specifies that both contracts it requires, with a credential service provider and with the electronic credential providers, must use a revenue sharing model. Specifically, the bill:

- Requires DHSMV to provide a standard digital transaction process to electronic credential providers that directs payments to DHSMV at the point of sale.
- Requires that revenue generated from the use of the electronic credential system be collected by DHSMV, deposited in the Motor Vehicle License Clearing Trust Fund (MVLC trust fund), and distributed pursuant to legislative appropriation and DHSMV agreements with electronic credential providers.
- Allows DHSMV to assess a competitive market rate fee structure for use of the credential service provider for any qualified entity to obtain an electronic ID with the revenue being shared between the state and the provider. The revenues must be deposited into the MVLC trust fund for distribution pursuant to DHSMV agreements with digital identity verifiers.¹⁷

¹³ The bill defines the term “credential service provider” to mean an electronic credential provider competitively procured by DHSMV to supply secure credential services based on open standards for identity management and verification to qualified entities.

¹⁴ The bill defines the term “electronic credential system” to mean a computer system used to display or transmit electronic credentials to a person or verification system and that may be accessed using an electronic device.

¹⁵ The bill defines the term “qualified entity” to mean a public or private entity which enters into a contract with the department, meets usage criteria, agrees to terms and conditions, and is authorized by DHSMV to use the credential service provider for authentication and identification verification services.

¹⁶ The bill defines the term “electronic ID” to mean a technology solution by which a qualified entity authenticates the identity of an individual receiving goods or services.

¹⁷ The bill defines “digital identity verifier” to mean a public or private entity that consumes the identity management services provided by the credential service provider.

- Prohibits fees from being charged to any state court, state governmental entity, or law enforcement agency.

B. SECTION DIRECTORY:

Section 1 amends s. 322.01, F.S., relating to definitions.

Section 2 amends s. 322.032, F.S., relating to electronic credentials.

Section 3 amends s. 322.059, F.S., making conforming changes.

Section 4 amends s. 322.143, F.S., making conforming changes.

Section 5 amends s. 322.15, F.S., making conforming changes.

Section 6 amends s. 322.61, F.S., making conforming changes.

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.¹⁸

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 DHSMV at the point of sale, deposited into the MVLC trust fund, 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;
- Procurement of a credential service provider as well as at least two but no more than five electronic credential providers; and
- Processing of requests to access any application programming interface necessary.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹⁸ Section 322.20, F.S.
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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:

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 January 23, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed provisions from the bill relating to state data centers.

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.

On February 22, 2018, the Government Accountability Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment expanded the definitional section of the bill to add more specialized terms and changed the revenue reception methodology so that the funds received pursuant to contracts required by the bill are deposited into the MVLC trust fund. In addition, the amendment specified that DHSMV would begin implementation of an initial phase and then report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the continued implementations and tools necessary to scale future phases.

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