

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 1313 Digital Driver Licenses and Identification Cards

SPONSOR(S): Commerce Committee, LaMarca, Toledo and others

TIED BILLS: CS/HB 1315 **IDEN./SIM. BILLS:** CS/SB 1324

FINAL HOUSE FLOOR ACTION: 117 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 1313 passed the House on April 21, 2021, as amended, and subsequently passed the Senate on April 22, 2021.

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards. Under the bill, DHSMV may contract with one or more private entities to develop an electronic credentialing system. The electronic credentialing system may not retain Internet Protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system.

The bill prohibits a private entity from storing, selling, or sharing personal information collected by scanning a digital proof of driver license or identification card unless consent has been provided by the individual.

The bill provides that, notwithstanding any law prescribing the design for, or information required to be displayed on, a driver license or identification card, a digital proof of driver license or identification card may comprise a limited profile that includes only information necessary to conduct a specific transaction on the electronic credentialing system.

The bill also provides that a person may not be issued a digital proof of driver license or identification card until he or she satisfies all requirements for issuance of the respective driver license or identification card and has been issued a printed driver license or identification card. The bill establishes penalties for a person who manufactures or possesses a false digital identification card.

The bill does not appear to have an impact on state or local government revenues. The bill may have an indeterminate but likely insignificant fiscal impact on state and local government expenditures.

The bill was approved by the Governor on June 29, 2021, ch. 2021-235, L.O.F., and became effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Digital Driver License

A digital driver license comes in the form of a smart phone app protected by biometrics or a personal identification number. Instead of handing over a physical license to a police officer or store clerk, an individual could display the relevant information on his or her smart phone or send it electronically.¹

Since 2012, the American Association of Motor Vehicle Administrators (AAMVA) has worked to develop identity credential standards, cross-jurisdictional use, authentication, data privacy protection, and other uses of digital driver licenses. AAMVA has collaborated with Underwriter Laboratories to establish international guidelines and interoperability for industry leaders to test their digital driver license solutions with one another.²

Since 2014, the Department of Highway Safety and Motor Vehicles (DHSMV) has been required to prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV may contract with one or more private entities to develop a digital proof of driver license system.³ The digital proof of driver license must be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license. 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 in Florida until he or she has satisfied all of the requirements for issuance of a physical driver license as provided in ch. 322, F.S.⁵

A person who:

- Manufactures a false digital proof of driver license commits a felony of the third degree.⁶
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree.⁷

While the statute allows for the creation of a digital proof of driver license, it does not authorize the creation of a digital identification card.

DHSMV's Motorist Modernization Project is a multi-phased program to modernize its legacy applications and processes. The Motorist Modernization Project has committed resources and approved funding to procure a digital driver license solution as part of Phase II. The FY 2020-2021 appropriation for Motorist Modernization Phase II was \$9,877,400. Of this amount, \$400,000 was allocated for digital driver license development.⁸

The digital driver license that DHSMV is developing includes a digital identification, which is a digital representation of a person's identity; however, the actual digital driver license is a digital representation of a physical credential and driving privileges. The DHSMV has branded this effort as the "Florida Smart ID" (Smart ID). Below is an overview of the Smart ID development timeline:

- Received legislative authority to implement in 2014;

¹ Veronica Combs, *Mobile Driver's License Would Replace the Physical Card With a Digital Identity*, Tech Republic, April 15, 2020, <https://www.techrepublic.com/article/mobile-drivers-license-would-replace-the-physical-card-with-a-digital-identity/> (last visited Mar. 11, 2021).

² Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (Mar. 5, 2021).

³ S. 322.032(1), F.S.

⁴ S. 322.032(2), F.S.

⁵ S. 322.032(3), F.S.

⁶ S. 322.032(4)(a), F.S.

⁷ S. 322.032(4)(b), F.S.

⁸ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (Mar. 5, 2021).

- AAMVA standards completed in 2019;
- Vendor awarded contract June 2020;
- Started work July 2020;
- Pilot program slated to start on March 25, 2021, and planned to run for 90 days.⁹

Florida Smart ID

Smart ID involves multiple interactions occurring between various system components, including a Credential Service Provider (CSP),¹⁰ the Smart ID device, and an associated verifier device.

DHSMV has contracted with a vendor to start the development of Smart ID. As of February 2021, the vendor anticipated completion of development and initiation of a pilot program by late March. The pilot program will allow DHSMV to improve and optimize Smart ID and an associated verifier application prior to the statewide launch.¹¹

Law enforcement personnel verifying a Smart ID will have access only to driver license information that the user consents to share, and no other information or data from the smart device will be displayed or shared. The Smart ID will display a QR/barcode that will show a law enforcement officer driver license information when scanned by a verifier application. Businesses verifying a Smart ID will have access only to age verification information that a user consents to share. No other information or data from the smart device will be displayed or shared.¹²

DHSMV can remotely update a Smart ID to extend additional privileges (add an endorsement, change classes of driver license), revoke privileges (suspend driver license), or remotely deactivate or wipe a person's credentials. Both the customer and a verifier application will be able to see when the Smart ID was most recently updated.¹³

Effect of the Bill

The bill amends s. 322.032, F.S., to provide for both a digital proof of driver license (DL) and identification card (ID card). The bill defines the terms “digital proof of driver license” and “digital proof of identification card” as an electronic credential viewable on an electronic credentialing system.¹⁴

The bill directs DHSMV to establish a secure and uniform system for issuing an optional digital proof of DL or ID card and authorizes DHSMV to contract with one or more private entities to develop an electronic credentialing system. As mentioned above, DHSMV has already begun the development of the Smart ID by contracting with a vendor. The bill prohibits the electronic credentialing system from retaining Internet Protocol addresses, geolocation data, or other information which can reveal the location, computer, computer system, or computer network which is used by a customer to access the system.

The bill requires the digital proof of DL and ID card to be in a format to allow for verification. The digital DL and ID card may only consist of information necessary to conduct specific transactions in the electronic credentialing system. The bill provides that any other law prescribing the design for, or information required to be displayed on a DL or ID card, a digital proof of DL or ID card may comprise a

⁹ *Id.* at p. 3.

¹⁰ A Credential Service Provider (CSP) is a trusted entity that issues or registers subscriber tokens and issues electronic credentials to subscribers. The CSP may encompass registration authorities and verifiers that it operates. A CSP may be an independent third party, or may issue credentials for its own use. See National Information Technology Laboratory, *Computer Security Resource Center*, https://csrc.nist.gov/glossary/term/credential_service_provider (last visited Mar. 4, 2021).

¹¹ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (Mar. 5, 2021).

¹² *Id.*

¹³ *Id.*

¹⁴ The bill defines the term “electronic credentialing system” as a computer system accessed using a computer, a cellular telephone, or any other personal device which queries DHSMV’s driver license and identification card records, displays or transmits digital proofs of driver license and identification cards, and verifies the authenticity of those electronic credentials.

limited profile,¹⁵ which includes only information necessary to conduct a specific transaction on the electronic credentialing system.

The bill authorizes DHSMV to use a telephone number submitted by a licensee or cardholder in connection with a digital DL or ID for purpose of communication regarding the electronic credential or the motor vehicle records. The bill permits DHSMV to enter into contracts with one or more private entities to conduct online data calls or offline data verification using the electronic credentialing system.

The bill prohibits any private entity from storing, selling, or sharing any personal information collected from scanning¹⁶ a digital DL or ID card. However, the bill allows individuals using an electronic DL or ID card to consent to allow a private entity to collect and store such personal information. The bill also requires the individual to be informed about what information is collected and the purpose or purposes for which the information will be used. A private entity that violates this section is subject to a civil penalty of up to \$5,000 per occurrence. However, this provision does not apply to a financial institution.¹⁷

The bill provides that any person who manufactures a false digital DL or ID card commits a felony of the third degree. The possession of a false digital DL or ID card is a misdemeanor of the second degree.

The bill amends s. 322.14(1)(a), F.S., to require DHSMV to issue a printed DL to every qualified applicant. The bill prohibits DHSMV from issuing a digital DL or ID card if the applicant is not eligible for the issuance of a physical printed DL or ID card. The digital DL or ID card must be capable of displaying current information from a DL record. For example, if a licensee's driving privilege is suspended, revoked, or disqualified, or if his or her DL is otherwise canceled or expired, a digital proof of DL may not be issued. However, a digital proof of ID card may be issued if the licensee is otherwise eligible for an ID card.¹⁸

The bill amends s. 322.15(1), F.S., to require a person to submit his or her physical DL or ID card if a law enforcement officer is unable to verify a digital credential.

The bill has an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

¹⁵ The bill defines the term "limited profile" as an electronic credential containing some, but not all, of the information displayed on a printed driver license or identification card.

¹⁶ The bill defines the term "scanning" as obtaining data from a digital proof of driver license or identification card in an electronic format.

¹⁷ Section 655.005(1)(i), F.S., defines the term "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

¹⁸ Eligibility for ID cards is provided in s. 322.051, F.S.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Businesses who wish to provide electronic verification of a Smart ID will need a retail reader application installed on a device. Additionally, if a business prefers to integrate the verification process into its point of sale systems, it would require application development to be done by the business to integrate a retail reader application into its point of sale systems.¹⁹

D. FISCAL COMMENTS:

State and local law enforcement agencies will need to train their members and update associated enforcement policies for the Smart ID. This may have an indeterminate, but likely insignificant fiscal impact on state and local government.²⁰

DHSMV has already undertaken development of the Smart ID through existing law and therefore already has the resources to continue with the expanded requirements of the bill. Due to this, the fiscal impact on DHSMV is minimal and can be absorbed within existing resources.²¹

¹⁹ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, p. 7. (Mar. 5, 2021)

²⁰ *Id.* at p. 6.

²¹ *Id.*