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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/29/2013 01:14 PM

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Senator Gardiner moved the following:

Senate Amendment

Delete lines 1982 - 2083

and insert:

Section 38. Section 322.143, Florida Statutes, is created to read:

322.143 Use of a driver license or identification card.-

(1) As used in this section, the term:

(a) "Personal information" means an individual's name, address, date of birth, driver license number, or identification card number.

(b) "Private entity" means any nongovernmental entity, such as a corporation, partnership, company or nonprofit



396456

14 organization, any other legal entity, or any natural person.

15 (c) "Swipe" means the act of passing a driver license or
16 identification card through a device that is capable of
17 deciphering, in an electronically readable format, the
18 information electronically encoded in a magnetic strip or bar
19 code on the driver license or identification card.

20 (2) Except as provided in subsection (6), a private entity
21 may not swipe an individual's driver license or identification
22 card, except for the following purposes:

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

27 (b) To verify the individual's age when providing an age-
28 restricted good or service.

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

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

35 (e) To comply with a legal requirement to record, retain,
36 or transmit the driver license information.

37 (3) A private entity that swipes an individual's driver
38 license or identification card under paragraph (2) (a) or
39 paragraph (2) (b) may not store, sell, or share personal
40 information collected from swiping the driver license or
41 identification card.

42 (4) A private entity that swipes an individual's driver



396456

43 license or identification card under paragraph (2) (c) or
44 paragraph (2) (d) may store or share personal information
45 collected from swiping an individual's driver license or
46 identification card for the purpose of preventing fraud or other
47 criminal activity against the private entity.

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

54 (b) A person who is regulated by the federal Fair Credit
55 Reporting Act and who receives personal information from a
56 private entity under subsection (4) may use or provide the
57 personal information received only to effect, administer, or
58 enforce a transaction or prevent fraud or other criminal
59 activity, if the person provides or receives personal
60 information under contract from the private entity.

61 (6) (a) An individual may consent to allow the private
62 entity to swipe the individual's driver license or
63 identification card to collect and store personal information.
64 However, the individual must be informed what information is
65 collected and the purpose or purposes for which it will be used.

66 (b) If the individual does not want the private entity to
67 swipe the individual's driver license or identification card,
68 the private entity may manually collect personal information
69 from the individual.

70 (7) The private entity may not withhold the provision of
71 goods or services solely as a result of the individual



396456

72 requesting the collection of the data in subsection (6) from the
73 individual through manual means.

74 (8) In addition to any other remedy provided by law, an
75 individual may bring an action to recover actual damages and to
76 obtain equitable relief, if equitable relief is available,
77 against an entity that swipes, stores, shares, sells, or
78 otherwise uses the individuals personal information in violation
79 of this section. If a court finds that a violation of this
80 section was willful or knowing, the court may increase the
81 amount of the award to no more than three times the amount
82 otherwise available.

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