HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 485 State Technology
SPONSOR(S): Transportation & Infrastructure Subcommittee; Grant and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) in collaboration with the Agency for State Technology (AST) to establish and implement secure and uniform protocols and standards for issuing an optional digital proof of driver license, and procure any application programming interface necessary to enable a private entity to securely manufacture a digital proof of driver license.

The bill requires AST, in collaboration with DHSMV, to maintain and publish on its website the protocols and standards necessary for a private entity to request access to an application programming interface necessary for the private entity to manufacture a digital proof of driver license.

The bill provides that revenue generated from the sale or renewal of a digital proof of driver license is collected at the point of sale or renewal by an authorized manufacturer of digital proofs of driver licenses and the revenue is shared with the state. Authorized manufacturers must remit 50 percent of all revenue collected when a digital proof of driver license is sold or renewed for deposit into the Highway Safety Operating Trust Fund. AST is required to enter into an agreement with such authorized manufacturer that sets forth permitted uses, terms and conditions, privacy policy, and terms relating to the manufacture of a digital proof of driver license.

The bill provides that presenting a digital proof of driver license to a law enforcement officer does not constitute consent for the officer to access other information on the device. Additionally, the person who presents the device to the officer is liable for any resulting damage to the device.

The bill is expected to have a positive impact on state revenues associated with the revenue sharing provisions. There is an indeterminate increase in state expenditures associated with developing protocols and standards for issuing digital proof of driver licenses.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Digital Driver Licenses

In general Ch. 322, F.S., relates to driver licenses. Created in 2014,[1] s. 322.032, F.S., provides for the establishment of a digital proof of driver license. This section 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. The statute authorizes DHSMV to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed by DHSMV or by an entity contracted by the 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. DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.

A person may not be issued a digital proof of driver license until he or she has satisfied all of the requirements of Ch. 322, F.S., for issuance of a physical driver license.

This section also establishes certain penalties for a person who manufacturers or possesses a false digital proof of driver license. 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,[2] a fine not to exceed $5,000,[3] or under the habitual felony offender statute.[4]
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison.[5]

AAMVA and Mobile Driver Licenses

The American Association of Motor Vehicle Administrators (AAMVA) has acknowledged the growing interests in the development of mobile driver licenses and has established various initiatives to address this topic. For example, AAMVA recently issued a draft white paper regarding functional needs for and practical considerations associated with the development of mobile driver licenses. The white paper identifies various issues to consider regarding mobile driver licenses, including laws that may need to be updated to accommodate mobile driver licenses. While not providing specific recommendations, the white paper identifies considerations such as cross-jurisdictional use, authentication, data privacy protection, including determining which data is released, and other uses of mobile driver licenses such as using them to board airplanes. The white paper also discusses legal considerations such as whom can use digital proof of a driver license and for what purposes can the digital driver license be used.[6]

Agency for State Technology

Established in 2014, the Agency for State Technology (AST) develops and publishes information technology policy for the management of the state's information technology resources, oversees the state's essential technology projects, and manages the State Data Center.[7]

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[1] Chapter 2014-216, L.O.F.
[2] Section 775.082, F.S.,
[3] Section 775.083, F.S.
[4] Section 775.084, F.S.
[5] Section 775.082, F.S.
[6] AAMVA Mobile Driver's License Functional Needs White Paper. Version 0.7. (Copy on file with Transportation & Infrastructure Subcommittee.)
[7] http://www.ast.myflorida.com/ (Last visited February 8, 2016).

Proposed Changes

The bill amends s. 322.032, F.S., relating to the digital proof of driver license. The bill requires DHSMV in collaboration with the AST to establish and implement secure and uniform protocols and standards[8] for issuing an optional digital proof of driver license, and procure any application programming interface[9] necessary for enabling a private entity to securely manufacture a digital proof of driver license.

The bill requires AST, in collaboration with DHSMV, to maintain and publish on its website the protocols and standards necessary for a private entity to request authorized access to an application programming interface necessary for the private entity to manufacture a digital proof of driver license. AST is required to timely review or reject such request. Upon approval, AST is directed to designate a private entity as an authorized manufacturer of digital proofs of driver licenses.

The bill provides that revenue generated from the sale or renewal of a digital proof of driver license must be collected at the point of sale or renewal by an authorized manufacturer of digital proofs of driver licenses and such revenue must be shared with the state on a revenue-sharing basis. Such authorized manufacturer is responsible for remitting 50 percent of all revenue collected when a digital proof of driver license is sold or renewed for deposit into the Highway Safety Operating Trust Fund. AST, in collaboration with the Department of Management Services, is required to enter into an agreement with such authorized manufacturer that sets forth permitted uses, terms and conditions, privacy policy, and terms relating to the manufacture of a digital proof of driver license.

The bill amends s. 322.032(2), F.S., removing the provision that the digital proof of driver license is developed by DHSMV or an entity contracted with DHSMV. The also bill provides that presenting to a law enforcement officer an electronic device displaying a digital proof of driver license does not constitute consent for the officer to access any additional information on the device other than the digital proof of driver license. 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. 322.032, F.S., relating to the digital proof of driver license.

Section 2 provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill provides for a 50 percent revenue share with the state associated with the manufacturer of a digital proof of driver license. However, the fiscal impact is indeterminate at this time.

2. Expenditures:

The bill has an indeterminate impact on state expenditures relating to the development of protocols and standards for digital driver licenses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[8] Secure and uniform protocols and standard would provide how digital devices would communicate with each other.
[9] An application programming interface is a system of tools and resources in an operating system, enabling developers to create software applications.

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who wish to obtain a digital proof of driver license will incur costs associated with obtaining such proof, but the cost is 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2017, the Transportation & Infrastructure Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment changes where the revenue is deposited from the sale or renewal of a digital driver license from the General Revenue Fund to the Highway Safety Operating Trust Fund. The second amendment provides that presenting an electronic device to a law enforcement officer displaying a digital proof of a driver license does not constitute consent for the officer to view other information on the device. Additionally, the amendment provides that a person presenting a device to a law enforcement officer assumes liability for any resulting damage to the device.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.