

7538

I N S E N A T E

May 15, 2014

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the alcoholic beverage control law, in relation to the unlawful use of New York state driver's license or identification card

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 399-hh to read as follows:
3 S 399-HH. UNLAWFUL USE OF NEW YORK STATE DRIVER'S LICENSE OR IDENTIFI-
4 CATION CARD. 1. NO PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR
5 CORPORATION, NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, MAY
6 SCAN THE MACHINE-READABLE ZONE OF AN INDIVIDUAL'S NEW YORK STATE DRIV-
7 ER'S LICENSE OR IDENTIFICATION CARD AS DEFINED IN SECTION FOUR HUNDRED
8 NINETY OF THE VEHICLE AND TRAFFIC LAW, EXCEPT FOR THE FOLLOWING
9 PURPOSES:
10 A. TO VERIFY AUTHENTICITY OF THE DRIVER'S LICENSE OR IDENTIFICATION
11 CARD OR TO VERIFY THE IDENTITY OF THE INDIVIDUAL IF THE INDIVIDUAL PAYS
12 FOR GOODS OR SERVICES WITH A METHOD OTHER THAN CASH, RETURNS AN ITEM, OR
13 REQUESTS A REFUND OR EXCHANGE;
14 B. TO VERIFY THE INDIVIDUAL'S AGE WHEN PROVIDING AGE-RESTRICTED GOODS
15 OR SERVICES TO THE INDIVIDUAL;
16 C. TO PREVENT FRAUD OR OTHER CRIMINAL ACTIVITY IF THE INDIVIDUAL
17 RETURNS AN ITEM OR REQUESTS A REFUND OR AN EXCHANGE AND THE BUSINESS
18 USES A FRAUD PREVENTION SERVICE COMPANY OR SYSTEM. INFORMATION COLLECTED
19 BY SCANNING AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD
20 PURSUANT TO THIS SUBDIVISION SHALL BE LIMITED TO THE FOLLOWING INFORMA-
21 TION FROM THE INDIVIDUAL:
22 (1) NAME;
23 (2) ADDRESS;
24 (3) DATE OF BIRTH; AND
25 (4) DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER;
26 D. TO RECORD, RETAIN, OR TRANSMIT INFORMATION AS REQUIRED BY STATE OR
27 FEDERAL LAW;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 E. TO TRANSMIT INFORMATION TO A CONSUMER REPORTING AGENCY, FINANCIAL
2 INSTITUTION, OR DEBT COLLECTOR TO BE USED AS PERMITTED BY THE FEDERAL
3 FAIR CREDIT REPORTING ACT, GRAMM-LEACH-BLILEY ACT, OR THE FAIR DEBT
4 COLLECTION PRACTICES ACT; OR

5 F. TO RECORD, RETAIN, OR TRANSMIT INFORMATION BY A COVERED ENTITY
6 GOVERNED BY THE MEDICAL PRIVACY AND SECURITY RULES ISSUED BY THE FEDERAL
7 DEPARTMENT OF HEALTH AND HUMAN SERVICES, PARTS 160 AND 164 OF THE CODE
8 OF FEDERAL REGULATIONS, ESTABLISHED PURSUANT TO THE HEALTH INSURANCE
9 PORTABILITY AND AVAILABILITY ACT OF 1996.

10 2. NO PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPO-
11 RATION, NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, SHALL
12 RETAIN ANY INFORMATION OBTAINED FROM SCANNING AN INDIVIDUAL'S NEW YORK
13 STATE DRIVER'S LICENSE OR IDENTIFICATION CARD, EXCEPT AS PERMITTED IN
14 SUBDIVISION ONE OF THIS SECTION.

15 3. NO PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPO-
16 RATION, NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, SHALL
17 SELL OR DISSEMINATE TO A THIRD PARTY ANY INFORMATION OBTAINED UNDER THIS
18 SECTION FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO, MARKETING, ADVER-
19 TISING, OR PROMOTIONAL ACTIVITIES, EXCEPT AS PERMITTED IN SUBDIVISION
20 ONE OF THIS SECTION.

21 4. A PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPORATION,
22 NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, COVERED UNDER
23 THIS SECTION SHALL MAKE REASONABLE EFFORTS, THROUGH SYSTEMS TESTING AND
24 OTHER MEANS, TO ENSURE THAT THE REQUIREMENTS OF THIS SECTION ARE MET.

25 5. ANY WAIVER OF A PROVISION OF THIS SECTION IS CONTRARY TO PUBLIC
26 POLICY AND IS VOID AND UNENFORCEABLE.

27 6. EACH VIOLATION OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL
28 PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

29 7. FOR THE PURPOSES OF THIS SECTION:

30 A. "CONSUMER REPORTING AGENCY" SHALL HAVE THE SAME MEANING AS IN THE
31 FEDERAL FAIR CREDIT REPORTING ACT, TITLE 15 UNITED STATES CODE SECTION
32 1681A(F).

33 B. "COVERED ENTITY" SHALL HAVE THE SAME MEANING AS IN THE SECURITY
34 RULES ISSUED BY THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES,
35 PARTS 160 AND 164 OF THE CODE OF FEDERAL REGULATIONS, ESTABLISHED PURSU-
36 ANT TO THE HEALTH INSURANCE PORTABILITY AND AVAILABILITY ACT OF 1996.

37 C. "DEBT COLLECTOR" SHALL HAVE THE SAME MEANING AS IN THE FEDERAL FAIR
38 DEBT COLLECTION PRACTICES ACT, TITLE 15 UNITED STATES CODE SECTION
39 1692A.

40 D. "FINANCIAL INSTITUTION" SHALL HAVE THE SAME MEANING AS IN THE
41 FEDERAL GRAMM-LEACH-BLILEY ACT, TITLE 15 UNITED STATES CODE SECTION
42 6809.

43 S 2. Subdivision 8 of section 65-b of the alcoholic beverage control
44 law, as added by chapter 519 of the laws of 1999, is amended to read as
45 follows:

46 8. A licensee or agent or employee of such licensee shall only use the
47 information recorded and maintained through the use of such devices for
48 the purposes contained in paragraph (a) of subdivision seven of this
49 section, and [shall only use such devices for the purposes contained in
50 subdivision two of this section. No licensee or agent or employee of a
51 licensee shall resell or disseminate the information recorded during
52 such scan to any third person. Such prohibited resale or dissemination
53 includes, but is not limited to, any advertising, marketing or promo-
54 tional activities. Notwithstanding the restrictions imposed by this
55 subdivision, such records may be released pursuant to a court ordered
56 subpoena or pursuant to any other statute that specifically authorizes

1 the release of such information. Each violation of this subdivision
2 shall be punishable by a civil penalty of not more than one thousand
3 dollars] IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF SECTION
4 THREE HUNDRED NINETY-NINE-HH OF THE GENERAL BUSINESS LAW.

5 S 2. This act shall take effect immediately.