S T A T E O F N E W Y O R K

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:

Section 1. The general business law is amended by adding a new section 399-hh to read as follows:

S 399-HH. UNLAWFUL USE OF NEW YORK STATE DRIVER'S LICENSE OR IDENTIFICATION CARD. 1. NO PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPORATION, NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, MAY SCAN THE MACHINE-READABLE ZONE OF AN INDIVIDUAL'S NEW YORK STATE DRIVER'S LICENSE OR IDENTIFICATION CARD AS DEFINED IN SECTION FOUR HUNDRED NINETY OF THE VEHICLE AND TRAFFIC LAW, EXCEPT FOR THE FOLLOWING PURPOSES:

A. TO VERIFY AUTHENTICITY OF THE DRIVER'S LICENSE OR IDENTIFICATION CARD OR TO VERIFY THE IDENTITY OF THE INDIVIDUAL IF THE INDIVIDUAL PAYS FOR GOODS OR SERVICES WITH A METHOD OTHER THAN CASH, RETURNS AN ITEM, OR REQUESTS A REFUND OR EXCHANGE;

B. TO VERIFY THE INDIVIDUAL'S AGE WHEN PROVIDING AGE-RESTRICTED GOODS OR SERVICES TO THE INDIVIDUAL;

C. TO PREVENT FRAUD OR OTHER CRIMINAL ACTIVITY IF THE INDIVIDUAL RETURNS AN ITEM OR REQUESTS A REFUND OR AN EXCHANGE AND THE BUSINESS USES A FRAUD PREVENTION SERVICE COMPANY OR SYSTEM. INFORMATION COLLECTED BY SCANNING AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTIFICATION CARD PURSUANT TO THIS SUBDIVISION SHALL BE LIMITED TO THE FOLLOWING INFORMATION FROM THE INDIVIDUAL:

(1) NAME;

(2) ADDRESS;

(3) DATE OF BIRTH; AND

(4) DRIVER'S LICENSE NUMBER OR IDENTIFICATION CARD NUMBER;

D. TO RECORD, RETAIN, OR TRANSMIT INFORMATION AS REQUIRED BY STATE OR FEDERAL LAW;

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

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

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

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

3. NO PERSON, BUSINESS, FIRM, PARTNERSHIP, ASSOCIATION, OR CORPORATION, NOT INCLUDING THE STATE OR ITS POLITICAL SUBDIVISIONS, SHALL SELL OR DISSEMINATE TO A THIRD PARTY ANY INFORMATION OBTAINED UNDER THIS SECTION FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO, MARKETING, ADVERTISING, OR PROMOTIONAL ACTIVITIES, EXCEPT AS PERMITTED IN SUBDIVISION ONE OF THIS SECTION.

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

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

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

7. FOR THE PURPOSES OF THIS SECTION:

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

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

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

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

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

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

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

S 2. This act shall take effect immediately.