

# STATE OF NEW YORK

8160

2021-2022 Regular Sessions

## IN ASSEMBLY

July 7, 2021

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to authorizing the commissioner of motor vehicles to establish a pilot program to evaluate the use of optional mobile or digital alternatives to driver's licenses and non-driver identification cards if specified requirements are met; and to provide for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 section 504-a to read as follows:

3 § 504-a. Digital driver's licenses and non-driver identification  
4 cards.

5 1. The department may establish a pilot program to evaluate the use of  
6 optional mobile or digital alternatives to driver's licenses and non-  
7 driver identification cards, subject to all of the following require-  
8 ments:

9 (a) The alternative licenses shall be approved by the superintendent  
10 of the state police.

11 (b) The pilot program shall be limited to no more than five tenths  
12 (0.5) percent of licensed drivers for the purpose of the evaluation.

13 (c) The alternative products to be evaluated shall be provided at no  
14 cost to the state or to the participant.

15 (d) Any pilot program established by the department pursuant to this  
16 subdivision shall be completed no later than January first, two thousand  
17 twenty-eight.

18 (e) Any pilot program established by the department pursuant to this  
19 subdivision shall be limited to persons who have voluntarily chosen to  
20 participate in the pilot program.

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

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1 (f) A participant in any pilot program established by the department  
2 pursuant to this section may terminate their participation in the pilot  
3 program at any time, and may, upon termination, request the deletion of  
4 any data associated with their participation in the program. Within ten  
5 days of any such request, the department and all entities contracted  
6 with the department for the purpose of effectuating the pilot program  
7 shall delete all data collected or maintained pursuant to the partic-  
8 ipant's participation in the program.

9 (g) All participants shall receive both a physical and digital driv-  
10 er's license or non-driver identification card.

11 2. In developing and implementing the use of digital driver's licenses  
12 and non-driver identification cards, the department shall ensure the  
13 protection of personal information and include security features that  
14 protect against unauthorized access to information, including, but not  
15 limited to, all of the following:

16 (a) Ensuring that use of the digital driver's license or non-driver  
17 identification card does not require handing over one's digital device  
18 to any other person or entity when using the digital driver's license or  
19 non-driver identification card.

20 (b) Ensuring that any remote access to the digital driver's license or  
21 non-driver identification card shall require the express, affirmative,  
22 real-time consent of the person whose digital driver's license or non-  
23 driver identification card is being requested for each piece of informa-  
24 tion being requested and shall be limited to only that information which  
25 is provided on a physical driver's license or non-driver identification  
26 card.

27 (c) Ensuring that the digital driver's license or non-driver identifi-  
28 cation card, as well as any mobile application required for the digital  
29 driver's license or non-driver identification card, shall not contain or  
30 collect any information not strictly necessary for the functioning of  
31 the digital driver's license, non-driver identification card, or mobile  
32 application, including, but not limited to, location information.

33 (d) Ensuring that the information transmitted to the digital driver's  
34 license or non-driver identification card, as well as any mobile appli-  
35 cation required for the digital driver's license or non-driver identifi-  
36 cation card, is encrypted and protected to the highest reasonable secu-  
37 rity standards broadly available and cannot be intercepted while being  
38 transmitted from the department.

39 3. (a) In the conduct of any pilot program pursuant to this section,  
40 any data exchanged between the department and any electronic device,  
41 between the department and the provider of any electronic device, and  
42 between any electronic device and the provider of that electronic  
43 device, shall be limited to those data necessary to display the informa-  
44 tion necessary for a driver's license or non-driver identification card.

45 (b) An entity contracted with the department for this purpose shall  
46 not use, share, sell, or disclose any information obtained as part of  
47 this contract, including, but not limited to any information about the  
48 holder of a digital driver's license or non-driver identification card,  
49 except as is necessary to satisfy the terms of the contract. Upon termi-  
50 nation or expiration of any contract entered into for this purpose, the  
51 contracting entity shall delete any data collected or generated in the  
52 course of activities pursuant to that contract within thirty days.

53 4. (a) The holder of a digital driver's license or non-driver iden-  
54 tification card shall not be required to turn over their electronic  
55 device to any other person or entity in order to use the digital driv-

1 er's license or non-driver identification card for identity verifica-  
2 tion.

3 (b) The holder of a digital driver's license or non-driver identifica-  
4 tion card showing or turning over their electronic device to any other  
5 person or entity in order to use the digital driver's license or non-  
6 driver identification card for identity verification shall not consti-  
7 tute consent to a search, nor shall it constitute consent for access to  
8 any information other than that which is immediately available on the  
9 digital driver's license or non-driver identification card. Information  
10 incidentally obtained in the process of viewing a digital driver's  
11 license or non-driver identification card in order to verify the identi-  
12 ty of the holder shall not be used to establish probable cause for a  
13 warrant to search the electronic device.

14 (c) Any request for remote access to their digital driver's license or  
15 non-driver identification card for identity verification shall require  
16 the express consent of the holder of the digital driver's license or  
17 non-driver identification card, shall be limited to the content of the  
18 digital driver's license or non-driver identification card specified in  
19 the request for remote access, and shall not exceed the information  
20 available on a physical driver's license or non-driver identification  
21 card.

22 (d) Consent to remote access to a digital driver's license or non-dri-  
23 ver identification card by the holder shall not constitute consent to a  
24 search, nor shall it constitute consent for access to any information  
25 other than that which is immediately available on the digital driver's  
26 license or non-driver identification card. Information incidentally  
27 obtained in the process of remotely accessing a digital driver's license  
28 or non-driver identification card shall not be used to establish proba-  
29 ble cause for a warrant to search the electronic device.

30 5. (a) A participant in any pilot program established by the depart-  
31 ment pursuant to this section shall not be required to use a digital  
32 driver's license or non-driver identification card rather than a phys-  
33 ical driver's license or non-driver identification card for the purpose  
34 of identity verification, nor shall their participation in the pilot  
35 program preclude their use of a physical driver's license or non-driver  
36 identification card under any circumstances.

37 (b) A person or entity shall not provide preferential service based on  
38 a person's use of a digital driver's license or non-driver identifica-  
39 tion card rather than a physical driver's license or non-driver iden-  
40 tification card.

41 6. The pilot program may include the issuance of mobile or digital  
42 Real ID driver's license or non-driver identification card upon authori-  
43 zation of the United States Secretary of Homeland Security.

44 7. If the department conducts a pilot program authorized in subdivi-  
45 sion one of this section, the department shall, no later than July  
46 first, two thousand twenty-six, submit a report regarding the pilot  
47 program to the governor and the legislature, to include, but not be  
48 limited to the following:

49 (a) A review of all products evaluated in the pilot program and of the  
50 features of those products. The report shall note if the devices evalu-  
51 ated in the pilot program are available with the ability to transmit and  
52 retain information relating to the movement, location, and if a product  
53 contains that feature, the report shall also note if the product  
54 includes any security features to protect against unauthorized access to  
55 information.

1 (b) Recommendations for subsequent actions, if any, that should be  
2 taken with regard to alternative options for digital driver's licenses  
3 or non-driver identification cards evaluated in the pilot program.

4 § 2. This act shall take effect immediately and shall expire and be  
5 deemed repealed January 1, 2028.