STATE OF NEW YORK

1018

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. SOLAGES, ZACCARO -- 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:

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

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

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

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

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

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

(d) Any pilot program established by the department pursuant to this subdivision shall be completed no later than January first, two thousand thirty.

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

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

LBD03743-01-3

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

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

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

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

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

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

(d) Ensuring that the information transmitted to the digital driver's license or non-driver identification card, as well as any mobile application required for the digital driver's license or non-driver identification card, is encrypted and protected to the highest reasonable security standards broadly available and cannot be intercepted while being transmitted from the department.

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

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

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

er's license or non-driver identification card for identity verification.

(b) The holder of a digital driver's license or non-driver identification card showing or turning over their electronic device to any other person or entity in order to use the digital driver's license or non-driver identification card for identity verification shall not constitute consent to a search, nor shall it constitute consent for access to any information other than that which is immediately available on the digital driver's license or non-driver identification card. Information incidentally obtained in the process of viewing a digital driver's license or non-driver identification card in order to verify the identity of the holder shall not be used to establish probable cause for a warrant to search the electronic device.

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

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

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

(b) A person or entity shall not provide preferential service based on a person's use of a digital driver's license or non-driver identification card rather than a physical driver's license or non-driver identification card.

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

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

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

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

§ 2. This act shall take effect immediately and shall expire and be deemed repealed January 1, 2030.