

STATE OF NEW YORK

8208

IN SENATE

January 12, 2024

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed 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 thirty.

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.

21 (f) A participant in any pilot program established by the department
22 pursuant to this section may terminate their participation in the pilot
23 program at any time, and may, upon termination, request the deletion of
24 any data associated with their participation in the program. Within ten

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

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1 days of any such request, the department and all entities contracted
2 with the department for the purpose of effectuating the pilot program
3 shall delete all data collected or maintained pursuant to the partic-
4 ipant's participation in the program.

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

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

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

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

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

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

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

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

49 4. (a) The holder of a digital driver's license or non-driver iden-
50 tification card shall not be required to turn over their electronic
51 device to any other person or entity in order to use the digital driv-
52 er's license or non-driver identification card for identity verifica-
53 tion.

54 (b) The holder of a digital driver's license or non-driver identifica-
55 tion card showing or turning over their electronic device to any other
56 person or entity in order to use the digital driver's license or non-

1 driver identification card for identity verification shall not consti-
2 tute consent to a search, nor shall it constitute consent for access to
3 any information other than that which is immediately available on the
4 digital driver's license or non-driver identification card. Information
5 incidentally obtained in the process of viewing a digital driver's
6 license or non-driver identification card in order to verify the identi-
7 ty of the holder shall not be used to establish probable cause for a
8 warrant to search the electronic device.

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

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

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

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

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

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

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

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

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