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AB-2769 Privacy: driver's license information. (2017-2018)

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Date Published: 09/19/2018 09:00 PM

Assembly Bill No. 2769

CHAPTER 548

An act to amend Section 1798.90.1 of the Civil Code, relating to privacy.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2769, Cooper. Privacy: driver's license information.

Existing law authorizes a business to swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for prescribed verification and informational purposes. Existing law prohibits a business that swipes a driver's license or identification card in an electronic device from maintaining or using that information for any other purpose. A violation of those provisions is a misdemeanor.

This bill would expand those provisions to apply to scans as well as swipes. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1798.90.1 of the Civil Code is amended to read:

1798.90.1. (a) (1) A business may scan or swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for the following purposes:

(A) To verify age or the authenticity of the driver's license or identification card.

(B) To comply with a legal requirement to record, retain, or transmit that information.

(C) To transmit information to a check service company for the purpose of approving negotiable instruments, electronic funds transfers, or similar methods of payments, provided that only the name and identification number from the license or the card may be used or retained by the check service company.

(D) To collect or disclose personal information that is required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation.

(2) (A) An organ procurement organization may scan or swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device to transmit information to the Donate Life California Organ and Tissue Donor Registry established pursuant to Section 7150.90 of the Health and Safety Code for the purposes of allowing an individual to identify himself or herself as a registered organ donor. Information gathered or transmitted pursuant to this paragraph shall comply with the Department of Motor Vehicles Information Security Agreement.

(B) Prior to scanning or swiping a driver's license or identification card issued by the Department of Motor Vehicles, an organ procurement organization shall provide clear and conspicuous notice to the applicant and shall follow the procedure prescribed in this subparagraph:

(i) Once the applicant's information is populated on the electronic form, the applicant shall verify that the information is accurate and shall click "submit" after reading a clear and conspicuous consent message, which shall not be combined with or contained within another message, acknowledging that the applicant's information will be used for the sole purpose of being added to the registry.

(ii) The applicant shall provide his or her signature to complete registration.

(iii) The organization or registry system shall provide a written confirmation to the applicant confirming that he or she is signed up as an organ and tissue donor.

(3) A business or organ procurement organization shall not retain or use any of the information obtained by that electronic means for any purpose other than as provided herein.

(b) As used in this section:

(1) "Business" means a proprietorship, partnership, corporation, or any other form of commercial enterprise.

(2) "Organ procurement organization" means a person designated by the Secretary of the federal Department of Health and Human Services as an organ procurement organization.

(c) A violation of this section constitutes a misdemeanor punishable by imprisonment in a county jail for no more than one year, or by a fine of no more than ten thousand dollars (\$10,000), or by both.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.