

CONCURRENCE IN SENATE AMENDMENTS

AB 2769 (Cooper)

As Amended June 28, 2018

Majority vote

ASSEMBLY: 73-0 (May 17, 2018)

SENATE: 26-12 (August 31, 2018)

Original Committee Reference: **P. & C.P.**

SUMMARY: This bill authorizes businesses to scan driver's licenses and identification cards for the same purposes and under the same limitations that current law allows for the swiping of such documents.

The Senate amendments eliminated certain provisions thereby narrowing the bill to only apply existing restrictions on the swiping of a driver's license or Department of Motor Vehicles (DMV)-issued ID (identification) card to the scanning of those identification cards.

EXISTING LAW:

- 1) Authorizes a business to swipe a driver's license or DMV-issued ID card in any electronic device for the following purposes:
 - a) To verify the individual's age or the authenticity of the driver's license or DMV-issued ID card;
 - b) To comply with a legal requirement to record, retain, or transmit that information; or
 - c) To collect or disclose personal information required for reporting, investigating, or preventing fraud, abuse, or material misrepresentation. (Civil Code Section 1798.90.1(a).)
- 2) Provides that a business shall not retain or use any of the information obtained by that electronic means for any purpose other than as provided above. (Civil Code Section 1798.90.1(a)(3).)
- 3) Provides that a business swiping a driver's license or DMV-issued ID card for any other purpose is subject to a misdemeanor punishable by up to one year in county jail, a fine of up to \$10,000, or both. (Civil Code Section 1798.90.1.)
- 4) Defines "business" as a proprietorship, partnership, corporation, or any other form of commercial enterprise. (Civil Code Section 1798.90.1.)

FISCAL EFFECT: According to the Senate Appropriations Committee, potential local assistance costs, not likely to be significant.

COMMENTS: Existing law allows businesses to swipe driver's licenses and identification cards issued by the DMV for extremely limited purposes, such as to verify the age of the holder or the authenticity of the card. However, businesses are explicitly prohibited from retaining or using the information gained through the swiping of the cards for any purpose other than those

provided. Violations of these provisions can subject persons to misdemeanor charges and a fine of up to \$10,000.

Recent technology has allowed for the *scanning* of driver's licenses by businesses to perform these same functions, but information collected from scanning is arguably not regulated by law. The author points to evidence that businesses selling or using this technology are not following the guidelines laid out in existing law that regulate the swiping of licenses and identification cards. Accordingly, this bill authorizes the scanning of driver's licenses and identification cards to the same extent as current law allows the swiping of such identification documents.

In opposition to this bill PatronScan writes, "In striking the balance between privacy protections and patron safety, PatronScan would like to maintain the ability to share *limited* information from scans conducted at ABC-licensed entities specifically with other businesses licensed by ABC for the sole purpose of providing information to those licensees to grant or deny entry into their establishments based on safety considerations."

In support, the Coalition for Human Immigrant Rights (CHIRLA) writes:

Recently the legislature has been proactive in ensuring that sensitive information willingly provided by immigrants is protected from being used for the purposes of immigration enforcement. AB 2769 builds from those efforts by prohibiting the collection and retention of sensitive information provided on identification cards, licenses, or other forms of accepted identification. AB 2769 will prohibit the creation of a database that is self-regulated by individuals who lack the understanding and proper training to oversee such database.

Lastly, placing individuals on a database that labels them a "threat to public safety" has significant immigration consequences that could lead to deportation, revoking of current status, or denial of future immigration relief. It is for these reasons that CHIRLA is in support of your measure AB 2769.