

1 H.360

2 Introduced by Representatives Priestley of Bradford, Arsenault of Williston,
3 Berbeco of Winooski, Cina of Burlington, Cole of Hartford,
4 Logan of Burlington, Masland of Thetford, McGill of Bridport,
5 and White of Bethel

6 Referred to Committee on

7 Date:

8 Subject: Motor vehicles; Department of Motor Vehicles; operator's licenses;
9 mobile identification; privacy

10 Statement of purpose of bill as introduced: This bill proposes to establish
11 specific requirements to protect the privacy of individuals who use mobile
12 identification.

13 An act relating to privacy protections for mobile identification

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 23 V.S.A § 116 is amended to read:

16 § 116. ISSUANCE OF MOBILE IDENTIFICATION

17 (a) Definitions. As used in this section:

18 (1) “Attribute authentication” means the verification of a specific quality
19 of a data field on a mobile identification without revealing the underlying data
20 in that field. Attribute authentication includes verifying that a mobile

1 identification holder is legally permitted to purchase an age-restricted item
2 without revealing the holder's date of birth or actual age.

3 (2) “Data field” means a discrete piece of information that appears on a
4 mobile identification.

5 ~~(2)~~(3) “Full profile” means all the information provided on a mobile
6 identification.

7 ~~(3)~~(4) “Limited profile” means a portion of the information provided on
8 a mobile identification.

9 ~~(4)~~(5) “Mobile identification” means an electronic representation of the
10 information contained on a nonmobile credential.

11 ~~(5)~~(6) “Mobile identification holder” means an individual to whom a
12 mobile identification has been issued.

13 ~~(6)~~(7) “Nonmobile credential” means a nondriver identification card
14 issued under section 115 of this title, a driver's license issued under section
15 603 of this title, a junior operator's license issued under section 602 of this
16 title, a learner's permit issued under section 617 of this title, a commercial
17 driver's license issued under section 4111 of this title, or a commercial
18 learner's permit issued under section 4112 of this title.

19 (8) “Selective disclosure” means the disclosure through a verification
20 system of only certain data fields from a mobile identification that are

1 reasonably necessary for the purposes of the verification and the ability of the
2 mobile identification holder to determine which data fields are disclosed.

3 (b) Issuance. The Commissioner of Motor Vehicles may issue a mobile
4 identification to an individual in addition to, and not instead of, a nonmobile
5 credential. If issued, the mobile identification shall:

6 (1) be capable of producing both a full profile and a limited profile;

7 (2) satisfy the purpose for which the profile is presented;

8 (3) allow the mobile identification holder to maintain physical
9 possession of the device on which the mobile identification is accessed during
10 verification; and

11 (4) not be a substitute for an individual producing a nonmobile
12 credential upon request.

13 * * *

14 (d) Administration.

15 (1) The Commissioner may operate, or may operate through a third-
16 party administrator, a verification system for mobile identifications.

17 (2) Access to the verification system and any data field by a person
18 presented with a mobile identification requires the ~~credential~~ mobile
19 identification holder's consent, and, if consent is granted, the Commissioner
20 may release the following through the verification system:

1 (A) for a full profile, all data fields that appear on the mobile
2 identification; and

3 (B) for a limited profile, only the data fields ~~represented in the~~
4 ~~limited profile for~~ appearing on the mobile identification that the mobile
5 identification holder has consented to have released.

6 (3) The Commissioner shall ensure that any verification system for
7 mobile identifications meets the following requirements:

8 (A) The verification system does not incentivize or require a person
9 using the verification system to take possession of a mobile identification
10 holder's device while accessing data from the mobile identification.

11 (B) The verification system does not share or retain any information
12 regarding the persons that have accessed data from a particular mobile
13 identification or the locations at which data from a particular mobile
14 identification has been accessed.

15 (C) The verification system requires attribute authentication or
16 selective disclosure in all instances when access to a full profile is not
17 reasonably necessary. The verification system shall ensure that the data fields
18 being requested are first disclosed to the mobile identification holder and that
19 the mobile identification holder may determine which data fields are released
20 to the person requesting the data.

1 (D) The verification system utilizes techniques, methodologies, or
2 processes that ensure that data obtained from a mobile identification, including
3 the fact that the verification system was accessed in relation to a specific
4 mobile identification, cannot be linked together by one or more persons who
5 access the verification system.

6 (4)(A) The Commissioner shall adopt standards relating to:

7 (i) security and communications requirements for devices on
8 which mobile identifications are stored;

9 (ii) procedures for requesting and accessing data from mobile
10 identifications through the verification system;

11 (iii) minimum requirements for the identification and
12 authentication of the mobile identification holder prior to obtaining the
13 identification holder's consent to the disclosure of data fields on the mobile
14 identification; and

15 (iv) requirements providing for the storage of information
16 regarding what data was requested and accessed from a mobile identification,
17 which shall only be available to the mobile identification holder and may be
18 retained or destroyed at the mobile identification holder's discretion.

19 (B) The standards, to the extent practicable, shall be based on widely
20 accepted and publicly available national or international standards.

21 (e) Privacy protections.

1 (1) The verification system and mobile identifications shall not permit
2 the Department or any State entity to obtain control over the device on which a
3 mobile identification is stored or to deactivate a mobile identification stored on
4 a mobile identification holder's device.

5 (2) A law enforcement officer shall not take physical possession of the
6 device on which a mobile identification holder's mobile identification is
7 accessed for the purpose of accessing the mobile identification or verifying the
8 mobile identification holder's identity.

9 (3) No person shall request more data from a mobile identification than
10 is reasonably necessary to determine that the mobile identification holder
11 meets the legal requirements to enter into the transaction with the person
12 requesting the data.

13 (4) No digital services provider, application developer, or administrator
14 or operator of the verification system shall access, collect, retain, share, or use
15 data from a mobile identification or data about the use of a mobile
16 identification, except as necessary to comply with applicable State and federal
17 law.

18 (f) Right to choose whether to use mobile identification.

19 (1) No person shall condition the offer or use of a good or service on
20 access to an individual's mobile identification or nonmobile credential except
21 if:

1 (A) the transaction requires proof of age, identity, residency, or
2 another characteristic pursuant to State or federal law;

3 (B) the identification or credential is requested in relation to financial
4 or banking services to ensure that accounts, funds, financial instruments, or
5 personally identifiable information or financial data is not accessed by an
6 unauthorized person; or

7 (C) the identification or credential is requested in relation to medical
8 services to ensure that goods, services, or private medical information are not
9 provided to an unauthorized person.

10 (2) No person shall charge different prices or rates for goods or services,
11 provide different treatment or quality of goods or services, or condition access
12 or entry to a location based on whether an individual presents mobile
13 identification or an appropriate nonmobile credential, unless the use of mobile
14 identification or an appropriate nonmobile credential is necessary for
15 conducting a remote transaction or due to circumstances beyond the person's
16 control that prevent the person from accessing the verification system.

17 (g) Enforcement.

18 (1) The Attorney General or a State's Attorney may bring an action
19 against a private entity to enforce the provisions of this section by restraining
20 prohibited acts, seeking civil penalties, obtaining assurances of discontinuance,
21 and conducting civil investigations in accordance with the procedures

1 established in 9 V.S.A. §§ 2458–2461 as though a violation of the provisions
2 of this section is an unfair act in commerce. Any person complained against
3 shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–
4 2461. The Superior Courts are authorized to impose the same civil penalties
5 and investigation costs and to order other relief to the State of Vermont or an
6 aggrieved individual for violations of this section as they are authorized to
7 impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an
8 unfair act in commerce.

9 (2) An individual who has been aggrieved by a violation of the
10 provisions of this section may bring a civil action in the Superior Court
11 seeking:

12 (A) damages equal to:

13 (i) for a negligent violation of the provisions of this section,
14 \$2,500.00 or the amount of actual damages, whichever is greater; and

15 (ii) for an intentional violation of the provisions of this section,
16 \$5,000.00 or the amount of actual damages, whichever is greater;

17 (B) restraint of prohibited acts;

18 (C) reasonable attorney’s fees and costs; and

19 (D) other appropriate relief.

20 (3) For purposes of enforcing the provisions of this section, a repeated
21 violation of the provisions of this section by the same person through identical

1 use of the same individual's mobile identification prior to enforcement under
2 the provisions of this subsection shall not constitute separate violations of the
3 provisions of this section.

4 Sec. 2. EFFECTIVE DATE

5 This act shall take effect on July 1, 2025.