

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0939.01 Jery Payne x2157

SENATE BILL 16-141

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SENATE SPONSORSHIP

Jones,

HOUSE SPONSORSHIP

Foote,

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING ENACTMENT OF THE "DON'T SWIPE MY IDENTITY ACT"  
102 PROTECTING A CONSUMER'S MACHINE-READABLE INFORMATION  
103 ON CERTAIN IDENTIFICATION DOCUMENTS ISSUED BY THE  
104 DEPARTMENT OF REVENUE.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill prohibits a merchant from reading, collecting, or decoding machine-readable information from a driver's license or identification card or storing this information after the sale is consummated. The

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

following persons are exempt:

- ! A peace officer, state agency, or local government agency if acting within the course and scope of official duties; and
- ! A business acting as required by state or federal law; or
- ! A business preventing fraud or other criminal activity when an individual returns an item or requests a refund or an exchange if the business entity only reads the individual's name, address, and date of birth.

A violation is a class 1 misdemeanor and a deceptive trade practice. This allows the state attorney general or a district attorney to seek civil penalties for a violation.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 6-1-726 as  
3 follows:

4 **6-1-726. Identification document misuse - privacy of electronic**  
5 **information - definitions - penalties.** (1) **Short title.** THE SHORT TITLE  
6 OF THIS SECTION IS THE "DON'T SWIPE MY IDENTITY ACT".

7 (2) **Limitations on machine-readable portions of identification**  
8 **documents.** EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, A  
9 PERSON SELLING AT RETAIL COMMITS IDENTIFICATION DOCUMENT MISUSE  
10 IF THE PERSON KNOWINGLY:

11 (a) READS, COLLECTS, OR DECODES ANY INFORMATION FROM A  
12 MACHINE-READABLE PORTION OF AN IDENTIFICATION DOCUMENT;

13 (b) RETAINS AFTER THE RETAIL TRANSACTION HAS BEEN  
14 CONSUMMATED ANY INFORMATION OBTAINED FROM A  
15 MACHINE-READABLE PORTION OF AN IDENTIFICATION DOCUMENT; OR

16 (c) TRANSMITS TO ANOTHER PERSON ANY INFORMATION OBTAINED  
17 FROM THE MACHINE-READABLE PORTION OF AN IDENTIFICATION  
18 DOCUMENT.

19 (3) **Exceptions.** (a) THIS SECTION DOES NOT APPLY TO A PEACE

1 OFFICER, STATE AGENCY, OR LOCAL GOVERNMENT AGENCY IF ACTING  
2 WITHIN THE COURSE AND SCOPE OF OFFICIAL DUTIES.

3 (b) THIS SECTION DOES NOT APPLY TO A BUSINESS ENTITY:

4 (I) ACTING AS REQUIRED BY STATE OR FEDERAL LAW; OR

5 (II) PREVENTING FRAUD OR OTHER CRIMINAL ACTIVITY WHEN AN  
6 INDIVIDUAL RETURNS AN ITEM OR REQUESTS A REFUND OR AN EXCHANGE  
7 IF THE BUSINESS ENTITY:

8 (A) USES A FRAUD PREVENTION SERVICE COMPANY OR SYSTEM;  
9 AND

10 (B) ONLY READS THE INDIVIDUAL'S NAME, ADDRESS, AND DATE OF  
11 BIRTH.

12 (4) **Violations.** (a) IDENTIFICATION DOCUMENT MISUSE IS A CLASS  
13 1 MISDEMEANOR, PUNISHABLE UNDER SECTION 18-1.3-501, C.R.S. EACH  
14 DOCUMENT THAT HAS ITS MACHINE-READABLE INFORMATION READ,  
15 COLLECTED, DECODED, RETAINED, OR TRANSMITTED IN VIOLATION OF  
16 SUBSECTION (2) OF THIS SECTION IS A SEPARATE OFFENSE.

17 (b) A PERSON ENGAGES IN A DECEPTIVE TRADE PRACTICE WHEN,  
18 IN THE COURSE OF SUCH PERSON'S BUSINESS, VOCATION, OR OCCUPATION,  
19 THE PERSON COMMITS IDENTIFICATION DOCUMENT MISUSE IN VIOLATION  
20 OF THIS SECTION.

21 (5) **Definitions.** FOR THE PURPOSES OF THIS SECTION:

22 (a) "IDENTIFICATION DOCUMENT" MEANS A DRIVER'S LICENSE,  
23 MINOR DRIVER'S LICENSE, COMMERCIAL DRIVER'S LICENSE, OR  
24 IDENTIFICATION CARD ISSUED UNDER ARTICLE 2 OF TITLE 42, C.R.S.

25 (b) "RETAIL" MEANS THE ACTIVITY OF A BUSINESS ENTITY,  
26 INCLUDING A SOLE PROPRIETORSHIP OR PARTNERSHIP, THAT SELLS GOODS  
27 TO THE FINAL CONSUMERS.

1           **SECTION 2. Effective date - applicability.** This act takes effect  
2 July 1, 2016, and applies to offenses committed on or after said date.

3           **SECTION 3. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.