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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 10, 2012 11:25 AM
To: TRNtestimony
Cc: bkim@dcca.hawaii.gov
Subject: Testimony for SB2419 on 3/12/2012 9:00:00 AM

Testimony for TRN 3/12/2012 9:00:00 AM SB2419

Conference room: 309
Testifier position: Support
Testifier will be present: Yes
Submitted by: Bruce Kim
Organization: Office of Consumer Protection
E-mail: bkim@dcca.hawaii.gov
Submitted on: 3/10/2012

Comments:

DEPARTMENT OF CUSTOMER SERVICES
CITY & COUNTY OF HONOLULU
DIVISION OF MOTOR VEHICLE, LICENSING AND PERMITS
ADMINISTRATION
P.O. BOX 30300
HONOLULU, HAWAII 96820-0300

PETER B. CARLISLE
MAYOR



GAIL Y. HARAGUCHI
DIRECTOR

DENNIS A. KAMIMURA
LICENSING ADMINISTRATOR

March 9, 2012

The Honorable Joseph M. Souki, Chair
and Committee Members
Committee on Transportation
House of Representatives
State of Hawaii
State Capitol, Room 426
Honolulu, Hawaii 96813

Dear Chair Souki and Committee Members:

Subject: S.B. No. 2419 SD2, Relating to Personal Information

The City and County of Honolulu is in favor of S.B. No. 2419 SD2, which would prohibit the scanning and retention of personal information except for the purposes specified.

The provisions of SD2 will protect both the retailer as well as the personal identifiable information of the consumer.

The City and County of Honolulu urges your favorable action on S.D. No. 2419 SD2.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis A. Kamimura".

Dennis A. Kamimura
Licensing Administrator



Dan Youmans
President - Washington/Hawaii
External Affairs

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March 12, 2012

The Honorable Rep. Joseph Souki
Chair, Committee on Transportation

*Re: Testimony REQUESTING AMENDMENTS to Senate Bill 2419, SD2
Hearing before the House Committee on Transportation
9 a.m., Conference Room 309*

Rep. Souki and Members of the Committees:

Thank you for this opportunity to express AT&T's position on Senate Bill 2419, SD2. While we respect the bill sponsor's intentions, AT&T has concerns that this version of the bill would have potentially negative effects on our customers and the transactional processes at our retail stores.

Scanning a certificate of identification or a driver's license for purposes of recording basic customer information, fraud prevention and credit checks is a common practice for many types of retail establishments. Scanners are helpful because they reduce human errors while procuring personal information and also ensure the customer isn't required to orally share personal information in front of other consumers. This provides many customers the added benefit of privacy and serves as a tool against fraud prevention.

Therefore, AT&T proposes the bill be amended to include a minor exemption that would allow retention of certain information, including name, address, drivers license number, and date of birth for the purposes of establishing or maintaining a contract with the consumer. The language in House Bill 2309 HD1 provides a good model.

We also recommend that the bill be amended to allow for scanning a drivers' license to conduct a fraud check at the time the customer is purchasing the service. This will help prevent the use of fraudulent drivers' licenses.

Thank you for your time and consideration on this matter.

Respectfully Submitted, Dan Youmans, AT&T



Committee: Committee on Transportation
Hearing Date/Time: Monday, March 12, 2012, 9:00 a.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii in Strong Support of S.B. 2419, SD2,
Relating to Personal Information

Dear Chair Souki and Members of the Committee on Transportation:

The ACLU of Hawaii writes in support of S.B. 2419, SD2, which specifies the limited purposes for which a private business would be allowed to scan and retain personal information contained in a state identification card or driver's license.

Private businesses have adopted a practice of scanning the bar codes on customer driver's licenses for all manner of purchases. Bar code scanning may be required by company policy for purchases of alcohol and other age-related transactions, including Nicorette gum, mature video games, and cold medicines.

This bar code scanning practice raises serious privacy concerns: Hawaii driver's licenses contain bar codes with significant personal information, including name, address, date of birth, hair color, eye color, height, weight, gender, license expiration date, organ donor status, driver's license number, fingerprint, medical indicators and driver classification code.

- By scanning this information for each customer, private businesses are able to keep and use this data for any purpose. There are no regulations on what they may do with this information.
- Other states, including California, Texas and Nebraska have enacted laws to strictly limit the retention and use of driver's license information by businesses and to protect driver's license privacy.

As more personal information is amassed in more databases, the likelihood increases that the information will be misused or stolen, leading to risks of identity theft. Individuals can't protect the accuracy or distribution of their personal information when it is held by others. Driver's license data should only be retained by business entities where otherwise required by law. Transmission of driver's license data to third parties should be limited to situations where there is a clear need.

American Civil Liberties Union of Hawaii
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Hon. Rep. Souki, Chair, TRN Committee
and Members Thereof
March 12, 2012
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In Hawaii, we need a law that prohibits businesses and other private entities from swiping driver's licenses or identification cards to collect personal information which is then used for marketing purposes. S.B. 2419 will help to protect our privacy by reducing this surreptitious way of copying, storing and using our personal information.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Sincerely,

Laurie A. Temple
Staff Attorney

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TO: Representative Joseph M. Souki
Chair, Committee on Transportation
Hawaii State Capitol, Room 426
Via Email: TRNtestimony@Capitol.hawaii.gov

FROM: Mihoko E. Ito

DATE: March 10, 2012

RE: **S.B. 2419, SD2 – Relating to Personal Information**
Hearing: Monday, March 12, 2012 at 9:00 a.m.
Conference Room 309

Dear Chair Souki and Members of the Committee on Transportation:

I am Mihoko Ito, an attorney with Goodsill Anderson Quinn & Stifel, submitting testimony on behalf of the Consumer Data Industry Association (CDIA). Founded in 1906, CDIA is the international trade association that represents more than 400 data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA **submits comments** regarding S.B. 2419, SD2, which allows the scanning and retention of personal information contained in a state identification card or driver's license by certain specified entities for limited purposes.

CDIA appreciates that this bill is intended to address the potential illegitimate use of information contained in driver's licenses and state identification cards, but that the information in such licenses or identifications could still be used for the purposes of screening identification when verifying checks.

Many states have updated their statutes to allow for scanning and storage of driver's license information because over the last decade, more sophisticated technology has been developed to protect the safety of the data compiled. Federal law also places limitations

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on what personal identifiable information can be used and how it can be used by certain entities.¹

We believe that it is important to continue to allow the use of driver's license information through scanning technology. Scanning decreases manual errors, which can be problematic in the check verification process. Manual entry of licenses also backs up lines at the point of sale, which frustrates both consumers and clerks and makes purchase processes less efficient. Allowing scanning also reduces fraud, because, while it is easy to create a fake ID with numbers on a card, it is far more difficult to create a fake ID with numbers embedded in a magnetic stripe.

Moreover, capturing the information contained in the driver's license or identification assists in the collections and enforcement process. It is to everyone's benefit that merchants be able to collect on bad checks -- the harder it is to collect on bad checks, the less likely merchants are to continue accepting checks. This would tend to impact the youngest, oldest, and least well-off consumers.

CDIA has been working cooperatively with the stakeholders on this measure to refine the language so that it addresses the concerns of the interested parties. We note that H.B. 2309, HD 1 contains language that is closer to addressing these concerns, but that there are additional changes that the group has been discussing to strike a balance between protecting personal information and continuing to allow its use for legitimate purposes. We would therefore respectfully request that the Committee briefly defer decision making on this measure to allow the parties additional time to discuss and submit a draft for the Committee's consideration.

Thank you very much for the opportunity to submit testimony.

¹ Check services companies who scan the information are governed by two federal privacy laws, the Fair Credit Reporting Act and the Gramm-Leach-Bliley Act for the express reasons of protecting against actual or potential fraud or effecting transactions.



Representative Joseph Souki, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Transportation
State Capitol, Honolulu, Hawaii 96813

HEARING Monday, March 12, 2012
 9:00 am
 Conference Room 309

RE: **SB2419, SD2 Relating to Personal Information**

Chair Souki, Vice Chair Ichiyama, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing about 200 members and over 2,000 storefronts, and is committed to supporting the retail industry and business in general in Hawaii.

The retail industry shares the Legislature's concerns with preventing identity theft and protecting individuals' personal information. RMH has been in conversation with other stakeholders to address the legitimate uses of such information without jeopardizing consumers' privacy rights.

The provisions in HB2309, HD1 more clearly address our concerns; but this measure remains a work in progress. We believe further amendments are warranted as there are issues specific to retail that still need to be considered, particularly that of merchandise return fraud and abuse, which can effectively be addressed in Section I, subsections (b) and (c).

According to a survey by the National Retail Federation, losses to the industry from this activity range from \$14.3 to \$18.4 billion in 2011, and include receipt fraud, price switching and "wardrobing."

We respectfully request your deferring action on this bill to allow the stakeholders a bit more time to complete our discussion. We do have a meeting later today.

Thank you for your consideration and for the opportunity to comment on this measure.


Carol Pregill, President

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