

SB 2419

Measure Title: RELATING TO PERSONAL INFORMATION.

Report Title: Personal Information; Unlawful Use of Certificate of Identification or Driver's License

Description: Allows the scanning and retention of personal information contained in a state identification card or driver's license for only limited purposes.

Companion:

Package: None

Current Referral: CPN/EDT, JDL

Introducer(s): BAKER, CHUN OAKLAND, GREEN, Espero, Galuteria, Taniguchi

<u>Sort by</u> <u>Date</u>		Status Text
1/20/2012	S	Introduced.
1/23/2012	S	Passed First Reading.
1/23/2012	S	Referred to CPN/EDT, JDL.
1/27/2012	S	The committee(s) on CPN/EDT has scheduled a public hearing on 02-07-12 9:00AM in conference room 229.



NEIL AMBERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

AND

THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Tuesday, February 7, 2012
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2419, RELATING TO PERSONAL INFORMATION.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
TO THE HONORABLE CAROL FUKUNAGA, CHAIR,
AND MEMBERS OF THEIR COMMITTEES:

The Department of Commerce and Consumer Affairs appreciates the opportunity to testify on S.B. No. 2419, Relating to Personal Information. My name is Bruce Kim, Executive Director of the Office of Consumer Protection ("OCP"). OCP supports the intent and purposes of the bill and offers comments in support of the proposition that personal information should be protected.

The bill would add a new section to HRS Chap. 487R Destruction of Personal Information Records to make it unlawful to scan the machine readable zone of an individual's certificate of identification or driver's license to use or retain any information contained therein except in five (5) enumerated circumstances.

OCP suggests that this new language may be more appropriately located in Chap. 487N Security Breach of Personal Information or in the Hawaii Penal Code, rather than in Chap. 487R Destruction of Personal Property.

Identity theft is a serious crime with lasting negative repercussions on the life of the person whose identity is stolen. A frequently used source of identify theft is information contained on an individual's certificate of identification or driver's license. The widespread use of such personal identification numbers has made it relatively easy for thieves to gain access to sensitive information of innocent victims. Minimizing its use is important. Limiting the use of certificate of identification or driver's license information promotes the privacy interests of individuals and eliminates a potential source of information for identity thieves.

OCP subscribes to the proposition that any exception to the general rule against the unauthorized use or dissemination of personal identification numbers must be extremely limited in scope and nature. S.B. No. 2419 attempts to do so by setting forth five (5) limited situations where scanned images of an individual's certificate of identification or driver's license may be used or retained. That being said, the statute allows for scanning of a certificate of identification or driver's license to "verify the age of

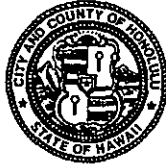
the individual who possesses the certificate or identification or driver's license" or to "verify the authenticity of the certificate of identification or driver's license". It is unclear why a person would need to scan a certificate of identification or driver's license in either circumstance if the holder of such documents presents the requested document at the time of the subject transaction. OCP is concerned that the bill as drafted appears to give a business unqualified authority to scan personal identification documents even if there is a less intrusive means to verify the age or identity of the customer.

It should be noted that Chaps. 487J, 487N and 487R regulate the use, security breach and destruction of protected personal identification information by businesses. OCP takes no position as to the criminal sanctions set forth on Page 2, Lines 7-11 except to note that this bill references conduct by a "person" and Chapters 487J, 487N and 487R all regulate conduct by a business.

Thank you for the opportunity to testify on S.B. No. 2419. I would be happy to answer any questions the committees may have.

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

January 30, 2012

The Honorable Rosalyn H. Baker, Chair
and Committee Members
Committee on Commerce and
Consumer Protection
The Honorable Carol Fukunaga, Chair
and Committee Members
Committee on Economic Development
and Technology
The Senate
State of Hawaii
State Capitol, Room 230
Honolulu, Hawaii 96813

Dear Chair Baker, Chair Fukunaga and Committee Members:

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

The City and County of Honolulu has no objections to S.B. No. 2419, which would prohibit the scanning and retention of personal information except for the purposes specified.

We recommend that the bill be amended to include scanning and retention by law enforcement and county driver license personnel for official purposes.

We are concerned with allowing unlimited retention of the scanned information for items (1), (2), and (4). We recommend a limited retention period, if retention is necessary, and certification that the personal information that are retained shall not be used for any commercial purposes and physically secured from disclosure in accordance with applicable federal and state laws.

Sincerely,

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

Dennis A. Kamimura
Licensing Administrator



Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice Chair
Committee on Commerce & Consumer Protection

Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair
Committee on Economic Development & Technology

State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, February 07, 2012
 9:00 am
 Conference Room 229

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

Chairs Baker and Fukunaga, Vice Chairs Taniguchi and Wakai, and Members of the Committees:

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.

RMH supports SB2419, which allows the scanning and retention of personal information contained in a state identification card or driver's license for only limited purposes.

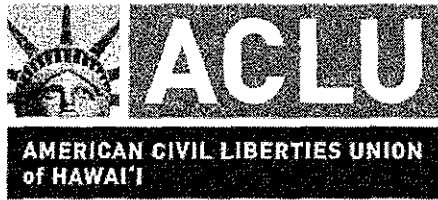
Respecting and protecting our consumers' personal information are priority issues for retailers: We must maintain their privacy while at the same time shield them from fraudulent activity. The challenge is balancing this responsibility against the multitude of regulations that require us to collect personal information. The permitted exceptions in SB2419 for the most part should facilitate our balancing the needs of business with those of our customers.

We respectfully request **one amendment** to insert: In part (a), subsection (4), line 18: "... provided that only the name, identification number, address, phone number, date of birth and expiration date from the certificate ..." Our experience with identity thieves and fraudulent check writers is that this additional information provides a greater level of authentication and therefore security and for our customers.

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

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202



Committee: Committee on Commerce and Consumer Protection
Committee on Economic Development and Technology
Hearing Date/Time: Tuesday, February 7, 2012, 9:00 a.m.
Place: Room 229
Re: Testimony of the ACLU of Hawaii in Strong Support of S.B. 2419,
Relating to Personal Information

Dear Chairs Baker and Fukunaga and Members of the Committees:

The ACLU of Hawaii writes in support of S.B. 2419, 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.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
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Hon. Sens. Baker and Fukunaga, Chairs, CPN/TIA Committees
and Members Thereof

February 7, 2012

Page 2 of 2

Transmission of driver's license data to third parties should be limited to situations where there is a clear need.

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

American Civil Liberties Union of Hawai'i
P.O. Box 3410
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Testimony for CPN/EDT 2/7/2012 9:00:00 AM SB2419

Conference room: 229
Testifier position: Comments Only
Testifier will be present: No
Submitted by: C Pomponio
Organization: Individual
E-mail: c_pomponio@yahoo.com
Submitted on: 1/30/2012

Comments:

It sounds good on the surface - but I would be careful about who does the scanning and where does the information go and for how long. In order to be sure that we don't enhance identity theft.