

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 59.1-442 of the Code of Virginia and to amend the Code of Virginia by*
3 *adding a section numbered 59.1-443.3, relating to the Personal Information Privacy Act; use of*
4 *driver's license information.*

5 [H 1072]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 59.1-442 of the Code of Virginia is amended and reenacted and that the Code of Virginia**
9 **is amended by adding a section numbered 59.1-443.3 as follows:**

10 **§ 59.1-442. Sale of purchaser information; notice required.**

11 A. No merchant, without giving notice to the purchaser, shall sell to any third person information
12 which concerns the purchaser and which is gathered in connection with the sale, rental or exchange of
13 tangible personal property to the purchaser at the merchant's place of business. Notice required by this
14 section may be by the posting of a sign or any other reasonable method. If requested by a purchaser not
15 to sell such information, the merchant shall not do so. No merchant shall sell any information gathered
16 solely as the result of any customer payment by personal check, credit card, or where the merchant
17 records the customer's driver's license number. *This subsection shall not be construed as authorizing a*
18 *merchant to sell to a third person any information concerning a purchaser if the sale or dissemination*
19 *of the information is prohibited pursuant to § 59.1-443.3.*

20 B. For the purposes of this section and § 59.1-443.3, "merchant" means any person or entity engaged
21 in the sale of goods from a fixed retail location in Virginia.

22 **§ 59.1-443.3. Scanning information from driver's license or identification card; retention, sale, or**
23 **dissemination of information.**

24 A. No merchant may scan the machine-readable zone of a Department of Motor Vehicles-issued
25 identification card or driver's license, except for the following purposes:

26 1. To verify authenticity of the identification card or driver's license or to verify the identity of the
27 individual if the individual pays for goods or services with a method other than cash, returns an item,
28 or requests a refund or an exchange;

29 2. To verify the individual's age when providing age-restricted goods or services to the individual if
30 there is a reasonable doubt of the individual having reached 18 years of age or older;

31 3. To prevent fraud or other criminal activity if the individual returns an item or requests a refund
32 or an exchange and the merchant uses a fraud prevention service company or system. Information
33 collected by scanning an individual's identification card or driver's license pursuant to this subdivision
34 shall be limited to the individual's name, address, date of birth, and driver's license number or
35 identification card number;

36 4. To comply with a requirement imposed on the merchant by state or federal law;

37 5. To provide to a check services company regulated by the federal Fair Credit Reporting Act, (15
38 U.S.C. § 1681 et seq.), that receives information obtained from an individual's identification card or
39 driver's license to administer or enforce a transaction or to prevent fraud or other criminal activity; or

40 6. To complete a transaction permitted under the Gramm-Leach-Bliley Act, (15 U.S.C. § 6801
41 et seq.), or the federal Fair Credit Reporting Act, (15 U.S.C. § 6812 et seq.).

42 B. No merchant shall retain any information obtained from a scan of the machine-readable zone of
43 an individual's identification card or driver's license except as permitted in subdivision A 3, 4, 5, or 6.

44 C. No merchant shall sell or disseminate to a third party any information obtained from a scan of
45 the machine-readable zone of an individual's identification card or driver's license for any marketing,
46 advertising, or promotional purpose. This subsection shall not prohibit a merchant from disseminating to
47 a third party any such information for a purpose described in subdivision A 3, 4, 5, or 6.

48 D. Any waiver of a provision of this section is contrary to public policy and is void and
49 unenforceable.