
SUBSTITUTE HOUSE BILL 2433

State of Washington

62nd Legislature

2012 Regular Session

By House Transportation (originally sponsored by Representatives Clibborn, Armstrong, Lias, Rodne, Maxwell, Moeller, Hurst, and Ormsby; by request of Department of Licensing)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to a facial recognition matching system for
2 drivers' licenses, permits, and identicards; amending RCW 46.20.037;
3 adding a new section to chapter 46.04 RCW; and repealing RCW 46.20.038.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.20.037 and 2006 c 292 s 1 are each amended to read
6 as follows:

7 (~~(1) ((No later than two years after full implementation of the~~
8 ~~provisions of Title II of P.L. 109-13, improved security for driver's~~
9 ~~licenses and personal identification cards (Real ID), as passed by~~
10 ~~Congress May 10, 2005,))~~ The department ((shall)) may implement a
11 ~~((voluntary biometric))~~ facial recognition matching system for
12 ~~((driver's))~~ drivers' licenses, permits, and identicards. ~~((A~~
13 ~~biometric))~~ Any facial recognition matching system ~~((shall))~~ selected
14 by the department must be used only to verify the identity of an
15 applicant for or holder of a ~~((renewal or duplicate))~~ driver's license,
16 permit, or identicard ~~((by matching a biometric identifier submitted by~~
17 ~~the applicant against the biometric identifier submitted when the~~
18 ~~license was last issued. This project requires a full review by the~~
19 ~~information services board using the criteria for projects of the~~

1 ~~highest visibility and risk))~~ to determine whether the person has been
2 issued a driver's license, permit, or identicard under a different name
3 or names.

4 (2) Any ~~((biometric))~~ facial recognition matching system selected
5 by the department ~~((shall))~~ must be capable of highly accurate
6 matching, and ~~((shall))~~ must be compliant with ~~((biometric))~~
7 appropriate standards established by the American association of motor
8 vehicle administrators that exist on the effective date of this
9 section, or such subsequent date as may be provided by the department
10 by rule, consistent with the purposes of this section.

11 ~~(3) ((The biometric matching system selected by the department must~~
12 ~~incorporate a process that allows the owner of a driver's license or~~
13 ~~identicard to present a personal identification number or other code~~
14 ~~along with the driver's license or identicard before the information~~
15 ~~may be verified by a third party, including a governmental entity.~~

16 ~~(4) Upon the establishment of a biometric driver's license and~~
17 ~~identicard system as described in this section, the department shall~~
18 ~~allow every person applying for an original, renewal, or duplicate~~
19 ~~driver's license or identicard to voluntarily submit a biometric~~
20 ~~identifier. Each applicant shall be informed of all ways in which the~~
21 ~~biometric identifier may be used, all parties to whom the identifier~~
22 ~~may be disclosed and the conditions of disclosure, the expected error~~
23 ~~rates for the biometric matching system which shall be regularly~~
24 ~~updated as the technology changes or empirical data is collected, and~~
25 ~~the potential consequences of those errors. The department shall adopt~~
26 ~~rules to allow applicants to verify the accuracy of the system at the~~
27 ~~time that biometric information is submitted, including the use of at~~
28 ~~least two separate devices.~~

29 ~~(5) The department may not disclose biometric information to the~~
30 ~~public or any governmental entity except when authorized by court~~
31 ~~order.~~

32 ~~(6))~~ The department shall post notices in conspicuous locations at
33 all department driver licensing offices, make written information
34 available to all applicants at department driver licensing offices, and
35 provide information on the department's web site regarding the facial
36 recognition matching system. The notices, written information, and
37 information on the web site must address how the facial recognition
38 matching system works, all ways in which the department may use results

1 from the facial recognition matching system, how an investigation based
2 on results from the facial recognition matching system would be
3 conducted, and a person's right to appeal any determinations made under
4 this chapter.

5 (4) Results from the facial recognition matching system:

6 (a) Are not available for public inspection and copying under
7 chapter 42.56 RCW;

8 (b) May only be disclosed pursuant to a valid subpoena, warrant, or
9 court order;

10 (c) May only be disclosed to a federal government agency if
11 specifically required under federal law; and

12 (d) May be disclosed by the department to a government agency,
13 including a court or law enforcement agency, for use in carrying out
14 its functions if the department has determined that person has
15 committed one of the prohibited practices listed in RCW 46.20.0921 and
16 this determination has been confirmed by a hearings examiner under this
17 chapter or the person declined a hearing or did not attend a scheduled
18 hearing.

19 (5) All ((biometric)) personally identifying information ((shall))
20 derived from the facial recognition matching system must be stored with
21 appropriate security safeguards((, including but not limited to
22 encryption)). The office of the chief information officer shall
23 develop the appropriate security standards for the department's use of
24 the facial recognition matching system, subject to approval and
25 oversight by the technology services board.

26 ~~((+7))~~ (6) The department shall develop procedures to handle
27 instances in which the ((biometric)) facial recognition matching system
28 fails to verify the identity of an applicant for a renewal or duplicate
29 driver's license, permit, or identicard. These procedures ((shall))
30 must allow an applicant to prove identity without using ((a biometric
31 identifier.

32 ~~(8) Any person who has voluntarily submitted a biometric identifier~~
33 ~~may choose to discontinue participation in the biometric matching~~
34 ~~program at any time, provided that the department utilizes a secure~~
35 ~~procedure to prevent fraudulent requests for a renewal or duplicate~~
36 ~~driver's license or identicard. When the person discontinues~~
37 ~~participation, any previously collected biometric information shall be~~
38 ~~destroyed.~~

1 ~~(9) This section does not apply when an applicant renews his or her~~
2 ~~driver's license or identicard by mail or electronic commerce))~~ the
3 facial recognition matching system.

4 (7) The department shall report to the governor and the legislature
5 by October 1st of each year, beginning October 1, 2012, regarding the
6 number of investigations initiated by the department based on results
7 from the facial recognition matching system and the final outcomes of
8 those investigations during the previous fiscal year.

9 NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW
10 to read as follows:

11 "Facial recognition matching system" means a system that compares
12 the biometric template derived from an image of an applicant or holder
13 of a driver's license, permit, or identicard with the biometric
14 templates derived from the images in the department's negative file.

15 NEW SECTION. Sec. 3. RCW 46.20.038 (Biometric matching system--
16 Funding) and 2004 c 273 s 4 are each repealed.

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