

TO ESTABLISH REQUIREMENTS FOR USE OF A DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CARD BY CERTAIN FINANCIAL INSTITUTIONS FOR OPENING AN ACCOUNT OR OBTAINING A FINANCIAL PRODUCT OR SERVICE, AND FOR OTHER PURPOSES

JANUARY 22, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 1457]

[Including cost estimate of the Congressional Budget Office]

The Committee Financial Services, to whom was referred the bill (H.R. 1457) to establish requirements for use of a driver's license or personal identification card by certain financial institutions for opening an account or obtaining a financial product or service, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. MAKING ONLINE BANKING INITIATION LEGAL AND EASY.

(a) **DEFINITIONS.**—In this section:

(1) **AFFILIATE.**—The term “affiliate” has the meaning given the term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

(2) **DRIVER'S LICENSE.**—The term “driver's license” means a license issued by a State to an individual that authorizes the individual to operate a motor vehicle on public streets, roads, or highways.

(3) **FEDERAL BANK SECRECY LAWS.**—The term “Federal bank secrecy laws” means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);
(B) section 123 of Public Law 91-508 (84 Stat. 1116); and

(C) subchapter II of chapter 53 of title 31, United States Code.

(4) **FEDERALLY RECOGNIZED INDIAN TRIBE.**—The term “federally recognized Indian Tribe” has the meaning given the term by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131(a)).

(5) **FINANCIAL INSTITUTION.**—The term “financial institution” means—

(A) an insured depository institution;

(B) an insured credit union; or

(C) any affiliate of an insured depository institution or insured credit union.

(6) FINANCIAL PRODUCT OR SERVICE.—The term “financial product or service” has the meaning given the term in section 1002(15) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481(15)).

(7) INSURED CREDIT UNION.—The term “insured credit union” has the meaning given the term in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(8) INSURED DEPOSITORY INSTITUTION.—The term “insured depository institution” has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(9) ONLINE SERVICE.—The term “online service” means any Internet-based service, such as a Web site or mobile application.

(10) PERSONAL IDENTIFICATION CARD.—The term “personal identification card” means an identification document issued by a State, local government, or federally recognized Indian Tribe to an individual solely for the purpose of identification of that individual.

(11) PERSONAL INFORMATION.—The term “personal information” means the information displayed on or electronically encoded on a driver’s license or personal identification card that is reasonably necessary to fulfill the purpose and uses permitted by subsection (b).

(12) STATE.—The term “State” means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

(13) SCAN.—The term “scan” means the act of using a device or software to decipher, in an electronically readable format, personal information displayed on or electronically encoded on a driver’s license or personal identification card.

(b) USE OF A DRIVER’S LICENSE OR PERSONAL IDENTIFICATION CARD.—

(1) IN GENERAL.—When an individual initiates a request through an online service to open an account with a financial institution or obtain a financial product or service from a financial institution, the financial institution may record personal information from a scan of the driver’s license or personal identification card of the individual, or make a copy or receive an image of the driver’s license or personal identification card of the individual, and store or retain such information in any electronic format for the purposes described in paragraph (2).

(2) USES OF INFORMATION.—Except as required to comply with Federal bank secrecy laws, a financial institution may only use the information obtained under paragraph (1)—

(A) to verify the authenticity of the driver’s license or personal identification card;

(B) to verify the identity of the individual; and

(C) to comply with a legal requirement to record, retain, or transmit the personal information in connection with opening an account or obtaining a financial product or service.

(3) DELETION OF IMAGE.—A financial institution that makes a copy or receives an image of a driver’s license or personal identification card of an individual in accordance with paragraph (1) shall, after using the image for the purposes described in paragraph (2), permanently delete, within a reasonable amount of time—

(A) any image of the driver’s license or personal identification card, as applicable; and

(B) any copy of any such image.

(c) DISCLOSURE OF PERSONAL INFORMATION.—Nothing in this section shall be construed to amend, modify, or otherwise affect any State or Federal laws that govern a financial institution’s disclosure and security of personal information that is not publicly available.

(d) RELATION TO STATE LAW.—The provisions of this section shall preempt and supersede any State law that conflicts with a provision of this section, but only to the extent of such conflict.

PURPOSE AND SUMMARY

Introduced on March 9, 2017 by Representative Tipton, H.R. 1457 the “Making Online Banking Initiation Legal and Easy Act of 2017” or “MOBILE” Act authorizes a financial institution, upon an individual’s request, to record personal information from a scan, copy, or image of such individual’s driver’s license or personal identification card and store the information electronically to verify the customer’s identity and prevent fraud or criminal activity. H.R.

1457 requires the financial institution to delete the image after using it for the permitted purpose.

BACKGROUND AND NEED FOR LEGISLATION

Currently, the majority of states' laws permit mobile banking applications or apps to copy (aka "scan" or "swipe") state-issued driver's licenses or personal identification cards to verify the identity of their customers. In these states, there is no legal barrier to consumers that wish to open a bank account or seek certain other banking services on a mobile device.

However a minority of states do not permit the use of state-issued driver's licenses or personal identification cards. Five states prohibit making and retaining copies of driver's licenses (Colorado, Kansas, Mississippi, North Dakota, and Tennessee) and two states prohibit swiping driver's licenses (Illinois and Oregon). Twelve additional states and the District of Columbia have potentially ambiguous laws (Arizona, California, Florida, Hawaii, Maine, Nebraska, New Hampshire, North Carolina, Oklahoma, Oregon, Rhode Island, and Vermont).

The MOBILE Act creates uniformity and certainty that will allow financial institutions to offer the full range of mobile banking to all consumers. It creates a new national standard that would permit financial institutions to scan and retain information from driver's licenses and personal identification cards in every state. This legislation also permits mobile banking apps to use state-issued driver's licenses or personal identification cards for the limited purposes of verifying an individual's identity and complying with financial institutions' legal obligations to obtain, retain, and transmit this information when a customer opens an account or obtains a financial product or service. Current anti-money laundering and terrorism financing regulations already require financial institutions to verify customers' identities, and obtain, record, and transmit information pertaining to that information.

This legislation also includes provisions to promote the security of consumers' information. The bill requires financial institutions to delete all copies of driver's licenses and personal identification after having used them for the permitted purpose. The legislation does not affect state and federal laws governing financial institution's disclosure and security of non-public personal information, and limits its preemption of state law to only those provisions that directly conflict with the MOBILE Act.

HEARINGS

The Committee on Financial Services held a hearing examining matters relating to H.R. 1457 on July 12, 2017.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 12, 2017 and December 13, 2017 and ordered H.R. 1457 to be reported favorably by a recorded vote of 60 yeas to 0 nays (Record vote no. FC-125), a quorum being present. Before the motion to report was adopted, the Committee adopted an amendment offered by Mr. Tipton.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 60 yeas to 0 nays (Record vote no. FC-125), a quorum being present.

Record vote no. FC-125

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Maxine Waters (CA)	X		
Mr. McHenry	X			Mrs. Carolyn B. Maloney (NY) ..	X		
Mr. King	X			Ms. Velázquez	X		
Mr. Royce (CA)	X			Mr. Sherman	X		
Mr. Lucas	X			Mr. Meeks	X		
Mr. Pearce	X			Mr. Capuano	X		
Mr. Posey	X			Mr. Clay	X		
Mr. Luetkemeyer	X			Mr. Lynch	X		
Mr. Huizenga	X			Mr. David Scott (GA)	X		
Mr. Duffy	X			Mr. Al Green (TX)	X		
Mr. Stivers	X			Mr. Cleaver	X		
Mr. Hultgren	X			Ms. Moore	X		
Mr. Ross	X			Mr. Ellison	X		
Mr. Pittenger	X			Mr. Perlmutter	X		
Mrs. Wagner	X			Mr. Himes	X		
Mr. Barr	X			Mr. Foster	X		
Mr. Rothfus	X			Mr. Kildee	X		
Mr. Messer	X			Mr. Delaney	X		
Mr. Tipton	X			Ms. Sinema	X		
Mr. Williams	X			Mrs. Beatty	X		
Mr. Poliquin	X			Mr. Heck	X		
Mrs. Love	X			Mr. Vargas	X		
Mr. Hill	X			Mr. Gottheimer	X		
Mr. Emmer	X			Mr. Gonzalez (TX)	X		
Mr. Zeldin	X			Mr. Crist	X		
Mr. Trott	X			Mr. Kihuen	X		
Mr. Loudermilk	X						
Mr. Mooney (WV)	X						
Mr. MacArthur	X						
Mr. Davidson	X						
Mr. Budd	X						
Mr. Kustoff (TN)	X						
Ms. Tenney	X						
Mr. Hollingsworth	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 1457 will authorize a financial institution, with an individual's consent, to record personal information from a swipe or copy of an individual's driver's license or personal identification card and store the information electronically for the purpose of verifying the authenticity of the driver's license or identification card, or complying with legal requirements. Under current law, financial institutions are prohibited from selling, renting, transferring, or making such information available to another person, other than an affiliate.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 19, 2018.

Hon. JEB HENSARLING,
Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1457, the MOBILE Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sarah Puro (for federal costs) and Rachel Austin (for mandates).

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 1457—MOBILE Act of 2017

H.R. 1457 would require states to permit consumers to open Internet-based bank accounts with a scanned photograph of their driver's license or other personal identification. Under current law, fewer than 10 states prohibit such actions. Because the bill would exclusively affect state laws, CBO estimates that it would have no effect on the federal budget.

Enacting H.R. 1457 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 1457 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1457 would preempt state laws that conflict with the bill's provisions; those provisions would allow financial institutions to record information from a driver's license or personal identification card and store the information when verifying the authenticity of the documents, verifying a person's identity, or complying with legal requirements.

Although that preemption would limit the application of state laws and regulations, CBO estimates that H.R. 1457 would impose no duty on state, local, or tribal governments that would result in additional spending or a loss of revenues. Consequently, the cost of the mandate would not exceed the threshold established in the Unfunded Mandates Reform Act (UMRA) for intergovernmental mandates (\$78 million in 2017, adjusted annually for inflation).

The bill contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Sarah Puro (for federal costs) and Rachel Austin (for mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not

contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: The Committee estimates that the bill requires one directed rulemaking within the meaning of such section.

The rulemaking requires the CFPB to issue final regulations to carry out the amendments made by the Act within 90 days of the enactment of the Act, and those regulations shall be effective upon issuance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Making Online Banking Initiation Legal and Easy Act of 2017

This section defines the various terms utilized within the Act.

This section also authorizes a financial institution, upon an individual's request, to record personal information from a scan, copy, or image of such individual's driver's license or personal identification card and store the information electronically for the purpose of verifying the identity of a customer and preventing fraud or criminal activity. A financial institution must delete the image after using it for the permitted purpose.

The bill specifies that it does not affect applicable state and federal laws that govern a financial institution's disclosure and security of personal information that is not publicly available.

This section clarifies that the Act preempts and supersedes any conflicting State law to the extent of such conflict.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1457 does not repeal or amend any section of a statute. Therefore, the Office of Legislative Counsel did not prepare the report contemplated by clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives.