

Interested Party Testimony of J. Moyer, for Sub. HB 294,  
Ohio House Government Oversight Committee, December 1, 2022

Topics herein:

- 1.) **Legislation's conformance to non-permanent DL/ID numbers;**
- 2.) **Language specifying post-Sub. HB 294 DL/ID is not a national identification card;**
- 3.) **Clarification regarding data processing of DL/ID card data at polling place.**

Chairman Wilkin, Vice-Chair Swearingen, Ranking Minority Member Brown, Committee Members:

My name is James Moyer, I come from Medina County and while I write as a member of the public, I am a data protection advocate and researcher of data security regarding ID cards, passports and biometric systems. The scope of my work is global, but largely focused on the United States and the European Union.

I would like to suggest a couple of clarifications and amendments to this legislation in the context of driver's license/identity card security.

**1.) Legislation's conformance to non-permanent DL/ID numbers**

Since summer I have been in communication with Chairman Gavarone's office regarding SB 320, her legislation to require ID to vote.

Up to this point our conversation has focused on the fact that in 2017 the Experian data loss is reckoned to have lost the driver's license/ID card numbers of at least half of all Ohioans. Because these numbers are lost there is no security value to these numbers and it makes little sense to rely on them for election security purposes without beginning a reset of the driver's license and ID card numbers.

Similarly, in the last six weeks, a massive data loss in Australia (Optus data breach) is prompting states down there to begin resetting driver's license and passport numbers. This serves as a useful model for Ohio.

I was concerned with the structure of the wording of Sub. HB 294, which seems to assume a permanent driver's license/ID card number. I wanted to ask that the committee ensure that the law and its intended workflow will conform to non-permanent license and ID card numbers.

**2.) Language specifying post-Sub. HB 294 DL/ID is not a national identification card**

Sub. HB 294 proposes that non-citizens receive a DL/ID which indicates their non-citizenship. By default, this means that post-Sub. HB 294 cards for US citizens indicate their citizenship implicitly through its silence.

That change makes the Ohio driver's license/ID card conceptually similar to a European style national identity card model.

In order to prevent any unnecessary confusion on the intent of the legislature here, I would ask that the bill's language be amended to clarify that Ohio law does not create a national identification card and that the Ohio driver's license/state ID ***“does not carry the same purposes or obligations that are characteristic of national identification cards.”***

Fortunately this is an easy change to make. The American conservative movement has, since the early 20th century, championed principled opposition against national identity cards. Ohio has a long tradition of issuing non-photo licenses and ID cards for Christians who object to photographic ID/national ID cards. With the increasing conservatism and traditional religiosity of Ohioans, it is inevitable that the issuance of non-photo cards will expand in the future. The inclusion of language declaring that ORC does not establish a national identity card future-proofs statute with the foregoing in mind. (Ideally, the bolded language above would be printed on the cards themselves.)

### **3.) Clarification regarding data processing of DL/ID card data at polling place**

In regards to data processing at polling places Ohio law is currently silent about how long and in what ways the Boards of Election should be treating the driver's license number data. It would seem sensible to prescribe a strict regime of data handling and in that regard I would recommend no machine scanning of ID card documents, restricting card handling to only visual inspection, so that there is no unnecessary data processing of driver's license machine readable information. (Alternatively, language could specify that the voter can opt-out of machine reading of the identity document. The only way of doing so now is by using a utility bill.)

The scanning of an identity card as a precondition to vote is a messy policy choice in a variety of ways. I can recall no other democratic nation engaged in this habit. (I can think of non-democratic nations with theatrical elections which have machine scanning of ID cards.)

Machine scanning of Ohio identity cards in particular is a peculiar phenomenon because this state legislature has never authorized that the cards be machine readable. This is in tension with the fact that the machine readable elements are not provided for free by the identity card vendor, and so the state tenders for ID card features which are not provided for in law.

Mr. Chairman and Representatives, I want to thank you for your time and your efforts in regards to driver's license and identity card security in the context of Sub. HB 294.

Warmest regards,

J. Moyer