

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 8.01 an article numbered 25,  
2 consisting of sections numbered 8.01-227.11 through, and to amend relating to identity  
3 management liability.

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

5 **1. That the Code of Virginia is amended by adding in Chapter 3 of Title 8.01 an article numbered**  
6 **25, consisting of sections numbered 8.01-227.11 through 8.01-227.13, as follows:**

7 Article 25

8 Identity Management Liability.

9 § 8.01-227.11. Definitions

10 As used in this article unless the context requires a different meaning:

11 "Federated identity management" means a digital identity system that allows individuals,  
12 previously issued an identity credential, to use the same identity data (which, by way of example and not  
13 limitation, may be stored on an identity credential or identity token) to access resources (networks,  
14 databases, facilities, or other similar assets) of more than one enterprise within an identity trust  
15 framework in order to aid access control, conduct transactions and share information.

16 "Identity attribute" means personal information associated with an identity credential holder.

17 "Identity credential" means the identity data or the container for identity data which forms a  
18 verifiable assertion of identity when presented in an authentication transaction. The identity credential  
19 can be bound in some way to the identity credential holder to whom or to what it was issued, or it can be  
20 unbound, as with a bearer credential.

21 "Identity credential holder" is bound to or is in possession of an identity credential and has  
22 agreed to be bound by the terms and conditions required by the identity provider.

23 "Identity provider" means a certified entity within an identity trust framework responsible for  
24 providing the identity credential and/or asserting an identity and/or identity attribute for that identity  
25 credential holder.

26 "Identity token" means hardware the identity credential holder possesses that contains the  
27 identity credential.

28 "Identity trust framework" in digital identity systems is a certification program that enables the  
29 relying party to trust the identity, security, and privacy policies of the party who issues the identity  
30 credential. Participants include identity trust framework providers, identity providers, identity attribute  
31 providers, identity credential holders, and relying parties.

32 "Identity trust framework provider" means an entity that may (a) define policies for its respective  
33 trust framework, (b) evaluate participation in the trust framework to ensure compliance with policy,  
34 including the ability to request audits of participants for verification of such compliance, and/or (c)  
35 bestow one or more trustmarks on identity providers within the trust framework.

36 "Relying party" is an individual or entity that relies on the validity of an identity credential or a  
37 associated trustmark.

38 "Trustmark" means a machine-readable official seal, authentication feature, certification, license,  
39 or logo that signifies identity trust framework participant compliance with the system rules and policies  
40 of the applicable identity trust framework as determined by its accreditation or certification authority.

41 § 8.01-227.12. Trustmark does not carry implied warranty.

42 The use of a trustmark in a transaction does not imply a warranty for accuracy of the underlying  
43 informational content involved in the transaction. Nothing in this Article shall prevent an identity  
44 provider from providing a warranty for the assertion of identity contained on the identity credential.

45 § 8.01-227.13. Liability and immunity.

46 A. An identity trust framework provider shall be immune from suit arising from any acts or  
47 omissions relating to provisioning an identity attribute, identity credential, identity token, or trustmark  
48 issued in accordance with the specifications of identity trust frameworks, including systems supporting  
49 federated identity management, that the Commissioner of the Department of Motor Vehicles for the  
50 Commonwealth of Virginia has deemed acceptable, unless the identity trust framework provider was  
51 grossly negligent or engaged in willful misconduct.

52           B. An identity provider shall be immune from suit arising from any acts or omissions relating to  
53 provisioning an identity attribute, identity credential, or identity token issued in accordance with the  
54 specifications of identity trust frameworks that the Commissioner of the Department of Motor Vehicles  
55 for the Commonwealth of Virginia has deemed acceptable, unless the identity provider was grossly  
56 negligent or engaged in willful misconduct.

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