

SUBJECT: Access to electronically readable information from driver's licenses

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 6 ayes — B. Turner, Keel, Berman, Driver, Gutierrez, P. King
2 nays — Hupp, Isett
1 absent — Villarreal

WITNESSES: For — Kenneth Brumelle, CHECKS; Chuck Courtney, Texas Retailers Association; Doug Dubois, Texas Petroleum Marketers and Convenience Store Association; Leslie Hanson, Source Data Ltd.; Dwain James, American Collectors Association of Texas; Dudley Kidwell, CKS Investments and INSTACHECK; Bill Lewis, Mothers Against Drunk Driving; Caroline Spieldenner; Howard Spieldenner
Against — None
On — Frank Elder, Texas Department of Public Safety

BACKGROUND: Transportation Code, sec. 521.126 establishes guidelines for accessing and using electronically readable information from the magnetic strip on the back of a driver's license or identification card. The information may not include any information other than what is printed on the license and may be used only for law enforcement or governmental purposes. Inappropriate use of electronically readable information constitutes a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

DIGEST: CSHB 1031 would make it a Class A misdemeanor to access or use the electronically readable information from a driver's license or personal identification card. The bill would make it a state jail felony (punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000) to compile or maintain a database of this information.

The bill would provide a defense to prosecution for accessing or using electronically readable information for a person who was:

- ! an officer or employee of the Department of Public Safety who accessed or used the information for official purposes;
- ! a merchant who accessed or used the information to electronically transcribe the purchaser's date of birth onto a check, to electronically compute the purchaser's age for an age-restricted product, or to verify a check for sufficient funds;
- ! a peace officer acting in an official capacity; or
- ! a Texas Parks and Wildlife Department (TPWD) license deputy.

This bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

By allowing merchants to access and use driver's license and identification card information electronically, CSHB 1031 would help prevent minors from buying alcohol and help catch those passing bad checks. Merchants could use this information to help them verify the purchaser's checks or age quickly and efficiently. Because the merchant would not be allowed to compile or maintain this information, the bill would pose no threat to public safety or personal security.

**OPPONENTS
SAY:**

CSHB 1031 could create a threat to public safety and personal security. Despite the bill's prohibitions, there would be no effective way to prevent merchants from compiling databases of this information. Allowing the magnetic stripes on driver's licenses and identification cards to be used for private or commercial purposes would open the door to other exceptions.

**OTHER
OPPONENTS
SAY:**

Current law prohibits the use of electronically readable information for any use other than law enforcement or governmental purposes. The access or use of this information by merchants is not a strictly governmental purpose and therefore should not be allowed.

NOTES:

The committee substitute made several changes to the filed version, including allowing a merchant to access electronically readable information to verify check information and adding a TPWD license deputy to the list of people who could have a defense to prosecution.