

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

COMMITTEE: Public Safety — committee substitute recommended

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

SENATE VOTE: On final passage, April 5 — 30-0

WITNESSES: For — Daren Collymore, Capitol Bank; Ann Graham, Texas Bankers Association; Carol Hanson, Source DATA; Steve Skurlock, Independent Bankers Association of Texas; Howard Spieldenner
Against — Peggy Venable, Texas Citizens for a Sound Economy
On — Frank Elder, Texas DPS; David Ivy, Unicard Systems, Inc.; Rob Schneider, Consumers Union—Southwest Regional Office

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: CSSB 293 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 uses approved software who accessed or used the information to comply with state or federal law by electronically transcribing the purchaser's date of birth onto a check, electronically computing the purchaser's age for an age-restricted product, or verifying a check for sufficient funds;
- ! a peace officer acting in an official capacity;
- ! a Texas Parks and Wildlife Department (TPWD) license deputy; or
- ! an officer of a financial institution who accessed the information in the course of a financial transaction to comply with state or federal law or who electronically captured and maintained required information about a person conducting a financial transaction.

The Texas Alcoholic Beverage Commission (TABC) would be required to establish a training program to train employees to search for databases compiled or maintained in violation of this law, and trained employees would then be required to regularly inspect merchants for violations at least once a year.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

By allowing merchants to access and use driver's license and identification card information electronically, CSSB 293 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. By allowing financial institutions to access and maintain information required by state or federal law, the bill would further enhance a bank's ability to cut down on financial crime.

**OPPONENTS
SAY:**

CSSB 293 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 and financial institutions is not a strictly governmental purpose and therefore should not be allowed.

NOTES:

The Senate-passed version only would have allowed DPS to permit use of driver's license electronically readable information by seller or lessors of good and services if the information was used only to prevent a specific criminal offense and the information was not retained.

The companion bill, HB 1031 by West, was set on General State Calendar for May 8. CSSB 293 was laid out in lieu of HB 1031, then was postponed until today.