

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1069
By: Moncrief
State Affairs
4-19-97
Committee Report (Substituted)

DIGEST

In September 1994, Congress enacted comprehensive legislation to combat growing public concerns about crime. One provision of that new law, the DPPA, addressed the issue of state driver's license and motor vehicle information and its potential for misuse. Currently, the Driver's Privacy Protection Act (DPPA) requires Texas to create policies by September of 1997 that restrict the use of information made available by the Texas Department of Public Safety and the Texas Department of Transportation. C.S.S.B. 1069 would allow for continued access and use of driver's license and motor vehicle information by other governmental agencies for statistical research marketing purposes, vehicle safety and recall notices, insurance underwriting and the identification of owners of towed vehicles.

PURPOSE

As proposed, C.S.S.B. 1069 outlines provisions regarding the release and use of certain personal information from motor vehicle records.

RULEMAKING AUTHORITY

Rulemaking authority is granted to each agency under SECTION 1 (Section 730.014(a), Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 7J, Transportation Code, by adding Chapter 730, as follows:

CHAPTER 730. MOTOR VEHICLE RECORDS DISCLOSURE ACT

Sec. 730.001. SHORT TITLE: Motor Vehicle Records Disclosure Act.

Sec. 730.002. PURPOSE. Provides that the purpose of this chapter is to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle records, except as authorized by the individual or by law.

Sec. 730.003. DEFINITIONS. Defines "agency," "disclose," "individual record," "motor vehicle record," "person," "personal information," and "record."

Sec. 730.004. PROHIBITION ON DISCLOSURE AND USE OF PERSONAL INFORMATION FROM MOTOR VEHICLE RECORDS. Prohibits an agency of this state or an authorized agent or contractor of an agency of this state, that compiles or maintains motor vehicle records (agency) from disclosing personal information about any person obtained by the agency in connection with a motor vehicle record, notwithstanding any other provision of this law to the contrary, including Chapter 552, Government Code.

Sec. 730.005. REQUIRED DISCLOSURE. Requires personal information obtained by an agency in connection with a motor vehicle record to be disclosed for use in connection with certain matters.

Sec. 730.006. **REQUIRED DISCLOSURE WITH CONSENT.** Requires personal information obtained by an agency in connection with a motor vehicle record to be disclosed to a requestor who demonstrates, in such form and manner as the agency requires, that the requestor has obtained the written consent of the person who is the subject of the information.

Sec. 730.007. **PERMITTED DISCLOSURES.** Sets forth instances in which personal information obtained by an agency in connection with a motor vehicle may be disclosed to any requestor by an agency. Sets forth the only personal information an agency may release under this section.

Sec. 730.008. **DISCLOSURE OF INDIVIDUAL RECORD.** Sets forth instances in which personal information obtained by an agency in connection with a motor vehicle record that is contained in an individual record may be disclosed to a requestor without regard to intended use. Authorizes an agency to include the notice described by Subsection (a)(1) on forms used by members of the general public.

Sec. 730.009. **REQUESTS TO PROHIBIT DISCLOSURE.** Requires each agency to distinguish between a request by a person under Section 730.008 to prohibit disclosure of personal information in the person's individual record and a request under Section 730.007(a)(2)(K) by a person to prohibit disclosure of that information.

Sec. 730.010. **DISCLOSURE OF THUMB OR FINGER IMAGES PROHIBITED.** Provides that if an agency obtains an image of an individual's thumb or finger in connection with the issuance of a license, permit, or certificate to the individual, the agency may use the image only in connection with the issuance of the license, permit, or certificate and disclose the image only if disclosure is expressly authorized by the law, notwithstanding any other provision of this chapter.

Sec. 730.011. **FEES.** Authorizes an agency that has obtained information in connection with a motor vehicle to adopt reasonable fees for disclosure of that personal information under this chapter unless a fee is imposed by law.

Sec. 730.012. **ADDITIONAL CONDITIONS.** Authorizes an agency to require a requestor to provide reasonable assurance as to the identity of the requestor and that use of the personal information will be only as authorized or that the consent of the person who is the subject of the information has been obtained in addition to the payment of a fee adopted under Section 730.011. Authorizes an agency to require the requestor to make or file a written application in the form and containing any certification requirement the agency may prescribe.

Sec. 730.013. **RESALE OR REDISCLOSURE.** Outlines provisions regarding the resale and redisclosure of personal information.

Sec. 730.014. **AGENCY RULES; ORGANIZATION OF RECORDS.** Authorizes each agency to adopt rules to implement and administer this chapter. Provides that an agency that maintains motor vehicle records in relation to motor vehicles is not required to also maintain those records in relation to the individuals named in those records.

Sec. 730.015. **PENALTY FOR FALSE REPRESENTATION.** Provides that a person who requests the disclosure of personal information from an agency's records under this chapter and misrepresents the person's identity or who makes a false statement to the agency on an application required by the agency under this chapter commits a Class A misdemeanor.

SECTION 2. Amends Sections 411.0201(d)-(g), Government Code, to delete text regarding public access to certain records. Makes conforming changes.

SECTION 3. Amends Chapter 552C, Government Code, by adding Section 552.130, as follows:

Sec. 552.130. **EXCEPTION: MOTOR VEHICLE RECORDS.** Sets forth an exception

regarding motor vehicle records. Authorizes information described by Subsection (a) to be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

SECTION 4. Amends Section 552.222, Government Code, by amending Subsection (a) and adding Subsection (c), to provide that if the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. Defines "motor vehicle record."

SECTION 5. Amends Section 502.008, Transportation Code, by adding Subsection (d), to provide that this section does not authorize the release of information that is prohibited from disclosure under Chapter 730.

SECTION 6. Amends Section 521.045, Transportation Code, to authorize the Department of Public Safety (department) to disclose certain information to a person who is eligible to receive, rather than demonstrates a legitimate need for, the information under Chapter 730.

SECTION 7. Amends Section 521.046(a), Transportation Code, to make conforming changes.

SECTION 8. Amends Section 521.050, Transportation Code, to authorize the department to provide a purchaser with certain information if the purchaser certifies in writing that the purchaser is eligible to receive the information under Chapter 730. Authorizes a magnetic tape provided under this section to contain only names, addresses, and dates of birth of individuals who have not prohibited the disclosure of personal information relating to those individuals under Section 521.052 and Chapter 730. Makes conforming changes.

SECTION 9. Amends Section 521.051, Transportation Code, to prohibit the department from disclosing class-type listings from the basic driver's license record file to any person except as provided by Section 521.049(c), regardless of whether the requestor is eligible to receive the information under Chapter 730.

SECTION 10. Amends Section 521.052, Transportation Code, to prohibit the department from disclosing information from the department's file that relates to personal information, as that term is defined by Section 730.003, except as provided by Sections 521.045, 521.046, and Chapter 730, rather than by Section 521.051 and by Subsection (d). Deletes text regarding the disclosure of certain information. Requires the department to provide written notice to each applicant for an original or renewal license or personal identification certificate, or a duplicate or corrected license or certificate, that the applicant is entitled to prohibit disclosure of personal information under Chapter 730 and is entitled to execute a statement that prohibits, rather than restricts, public access to personal information relating to the applicant, rather than the address of the applicant. Deletes text regarding notification of a change in certain information and the disclosure of certain information.

SECTION 11. Amends Section 521.053(a), Transportation Code, to authorize the department to provide to any person the information specified by certain sections if the person is eligible to receive the information under Chapter 730.

SECTION 12. Amends Section 550.065, Transportation Code, as follows:

Sec. 550.065. RELEASE OF ACCIDENT REPORTS AND CERTAIN INFORMATION RELATING TO ACCIDENTS. Sets forth information to which this section applies. Deletes text regarding an accident report. Provides that the information is privileged and for the confidential use of the department and an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes, except as provided by Subsection (c). Sets forth entities to which the department or governmental entity is required to release information on written request and payment of the required fee. Sets forth requirements regarding the request of certain information. Deletes text regarding the release of a copy of a peace officer's report.

SECTION 13. Amends Section 601.022(a), Transportation Code, to require the department

to provide any person a certified abstract of the record of conviction of a person subject to this chapter for violation of a law relating to the operation of a motor vehicle or the record of any injury or damage caused by the person's operation of a motor vehicle, if the requestor is eligible to receive the information under Chapter 730.

SECTION 14. (a) Effective date: September 1, 1997.

(b) Requires each agency of this state that on September 1, 1997, compiles or maintains motor vehicle records to adopt rules to implement the procedures described by Section 730.007(a)(2)(k), Transportation Code, of this Act, no later than January 1, 1998. Requires an agency of this state that after September 1, 1997, begins to compile or maintain motor vehicle records to adopt rules to implement the procedure described by Section 730.007(a)(2)(K), Transportation Code, of this Act, no later than the 121st day after the date that the agency begins to compile or maintain motor vehicle records.

SECTION 15. (a) Provides that this Act conforms Section 550.065, Transportation Code, to Section 1, Chapter 894, Acts of the 74th Legislature, Regular Session, 1995, in addition to the substantive changes made by this Act.

(b) Repealer: Section 1, Chapter 894, Acts of the 74th Legislature, Regular Session, 1995.

(c) Provides that this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes to the extent of any conflict.

SECTION 16. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Title 7J, Transportation Code, by adding Chapter 730, regarding the Motor Vehicle Records Disclosure Act.

SECTION 2.

Amends Sections 411.0201(d)-(g), Government Code, regarding public access to certain records.

SECTION 3.

Amends Chapter 552C, Government Code, by adding Section 552.130, regarding an exception relating to motor vehicle records.

SECTION 4.

Amends Section 552.222, Government Code, by amending Subsection (a) and adding Subsection (c), regarding certain requested information.

SECTION 5.

Amends Section 502.008, Transportation Code, by adding Subsection (d), regarding the release of certain information.

SECTION 6.

Amends Section 521.045, Transportation Code, regarding the disclosure of certain information relating to an individual operator.

SECTION 7.

Amends Section 521.046(a), Transportation Code, to make a conforming change.

SECTION 8.

Amends Section 521.050, Transportation Code, regarding the sale of license information.

SECTION 9.

Amends Section 521.051, Transportation Code, regarding a prohibition on the disclosure of certain information.

SECTION 10.

Amends 521.052, Transportation Code, regarding a prohibition on the disclosure of individual information.

SECTION 11.

Amends Section 521.053(a), Transportation Code, regarding the provision of certain information.

SECTION 12.

Amends Section 550.065, Transportation Code, regarding the release of accident reports and certain information relating to accidents.

SECTION 13.

Amends Section 601.022(a), Transportation Code, regarding the provision of certain information.

SECTION 15.

Adds a repealer and text regarding confirmation and prevalence of this Act.