

By: King of Parker

H.B. No. 3471

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the Texas Consumer Privacy Act Phase I; creating
3 criminal offenses; increasing the punishment for an existing
4 criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. This Act may be cited as the Texas Consumer
7 Privacy Act Phase I.

8 SECTION 2. Section 521.0475(a), Transportation Code, is
9 amended to read as follows:

10 (a) Except as provided by Subsection (b), the department
11 shall provide a certified abstract of a complete driving record of a
12 license holder, for a fee of \$20, to the license holder or a person
13 eligible to receive the information under Sections
14 730.007(a)(2)(A), (B), and (E) [~~Sections 730.007(a)(2)(A), (D),~~
15 ~~and (I)~~].

16 SECTION 3. Section 730.003, Transportation Code, is amended
17 by adding Subdivision (1-a) and amending Subdivision (6) to read as
18 follows:

19 (1-a) "Authorized recipient" means a person who
20 receives personal information directly from an agency in a manner
21 authorized by this chapter.

22 (6) "Personal information" means information that
23 identifies a person, including an individual's photograph or
24 computerized image, social security number, date of birth, [~~driver~~]

1 identification number, name, address, e-mail address [~~but not the~~
2 ~~zip code~~], telephone number, and medical or disability information.

3 The term does not include:

4 (A) information on vehicle accidents, driving or
5 equipment-related violations, or driver's license or registration
6 status; or

7 (B) information contained in an accident report
8 prepared under:

9 (i) Chapter 550; or

10 (ii) former Section 601.004 before
11 September 1, 2017.

12 SECTION 4. Section 730.006, Transportation Code, is amended
13 to read as follows:

14 Sec. 730.006. REQUIRED DISCLOSURE WITH CONSENT. Personal
15 information obtained by an agency in connection with a motor
16 vehicle record shall be disclosed to a requestor who:

17 (1) is the subject of the information; or

18 (2) demonstrates, in such form and manner as the
19 agency requires, that the requestor has obtained the written
20 consent of the person who is the subject of the information.

21 SECTION 5. The heading to Section 730.007, Transportation
22 Code, is amended to read as follows:

23 Sec. 730.007. PERMITTED DISCLOSURES OF CERTAIN PERSONAL
24 INFORMATION.

25 SECTION 6. Sections 730.007(a) and (c), Transportation
26 Code, are amended to read as follows:

27 (a) Personal information obtained by an agency in

1 connection with a motor vehicle record may be disclosed to any
2 requestor by an agency if the requestor:

3 (1) provides the requestor's name and address and any
4 proof of that information required by the agency; and

5 (2) represents that the use of the personal
6 information will be strictly limited to:

7 (A) use by the Texas Department of Motor
8 Vehicles, the Department of Public Safety, the Texas Department of
9 Transportation, a [+

10 [~~(i) a government agency, including any~~
11 ~~court, or a law enforcement agency, in carrying out its functions;~~
12 ~~[or~~

13 [~~(ii) a private person or entity acting on~~
14 ~~behalf of a government agency in carrying out the functions of the~~
15 ~~agency,]~~

16 (B) [~~use in connection with a matter of:~~

17 [~~(i) motor vehicle or motor vehicle~~
18 ~~operator safety,~~

19 [~~(ii) motor vehicle theft,~~

20 [~~(iii) motor vehicle product alterations,~~
21 ~~recalls, or advisories,~~

22 [~~(iv) performance monitoring of motor~~
23 ~~vehicles, motor vehicle parts, or motor vehicle dealers,~~

24 [~~(v) motor vehicle market research~~
25 ~~activities, including survey research, or~~

26 [~~(vi) removal of nonowner records from the~~
27 ~~original owner records of motor vehicle manufacturers,~~

1 ~~[(C) use in the normal course of business by a~~
2 ~~legitimate business or an authorized agent of the business, but~~
3 ~~only.~~

4 ~~[(i) to verify the accuracy of personal~~
5 ~~information submitted by the individual to the business or the~~
6 ~~agent of the business; and~~

7 ~~[(ii) if the information is not correct, to~~
8 ~~obtain the correct information, for the sole purpose of preventing~~
9 ~~fraud by, pursuing a legal remedy against, or recovering on a debt~~
10 ~~or security interest against the individual;~~

11 ~~[(D)]~~ use in conjunction with a civil, criminal,
12 administrative, or arbitral proceeding in any court or government
13 agency or before any self-regulatory body, including service of
14 process, investigation in anticipation of litigation, execution or
15 enforcement of a judgment or order, or under an order of any court;

16 (C) ~~[(E)]~~ use in research or in producing
17 statistical reports, but only if the personal information is not
18 published, redisclosed, or used to contact any individual;

19 (D) ~~[(F) use by an insurer or insurance support~~
20 ~~organization, or by a self-insured entity, or an authorized agent~~
21 ~~of the entity, in connection with claims investigation activities,~~
22 ~~antifraud activities, rating, or underwriting;~~

23 ~~[(G)]~~ use in providing notice to an owner of a
24 vehicle that was towed or impounded and is in the possession of the
25 requestor ~~[vehicle];~~

26 (E) ~~[(H) use by a licensed private investigator~~
27 ~~agency or licensed security service for a purpose permitted under~~

1 ~~this section;~~

2 [~~(I)~~] use by an employer or an agent or insurer of
3 the employer to obtain or verify information relating to a holder of
4 a commercial driver's license that is required under 49 U.S.C.
5 Chapter 313;

6 (F) [~~(J)~~] use in connection with the operation of
7 a private toll transportation facility; or

8 (G) [~~(K)~~] use by a consumer reporting agency, as
9 defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
10 seq.), for a purpose permitted under that Act[~~;~~ ~~or~~

11 [~~(L)~~ use for any other purpose specifically
12 authorized by law that relates to the operation of a motor vehicle
13 or to public safety].

14 (c) This section does not:

15 (1) prohibit the disclosure of a person's photographic
16 image to:

17 (A) a law enforcement agency, the Texas
18 Department of Motor Vehicles, [~~a county tax assessor-collector,~~] or
19 a criminal justice agency for an official purpose;

20 (B) an agency of this state investigating an
21 alleged violation of a state or federal law relating to the
22 obtaining, selling, or purchasing of a benefit authorized by
23 Chapter 31 or 33, Human Resources Code; or

24 (C) an agency of this state investigating an
25 alleged violation of a state or federal law under authority
26 provided by Title 4, Labor Code; or

27 (2) prevent a court from compelling by subpoena the

1 production of a person's photographic image.

2 SECTION 7. Chapter 730, Transportation Code, is amended by
3 adding Sections 730.0121, 730.0122, and 730.0123 to read as
4 follows:

5 Sec. 730.0121. DELETION OF INFORMATION REQUIRED IF NOT
6 AUTHORIZED RECIPIENT. An agency by rule shall require a requestor
7 to delete from the requestor's records personal information
8 received from the agency under this chapter if the requestor
9 becomes aware that the requestor is not an authorized recipient of
10 that information.

11 Sec. 730.0122. SALE PROHIBITED. (a) A person may not sell
12 personal information obtained by an agency in connection with a
13 motor vehicle record.

14 (b) A person commits an offense if the person violates
15 Subsection (a). An offense under this subsection is a misdemeanor
16 punishable by a fine not to exceed \$100,000.

17 Sec. 730.0123. CIVIL SUIT. (a) A person who sells personal
18 information obtained by an agency in connection with a motor
19 vehicle record is liable to the person who is the subject of the
20 information for:

21 (1) actual damages;

22 (2) if the actual damages to the person are less than
23 \$2,500, an additional amount so that the total amount of damages
24 equals \$2,500; and

25 (3) court costs and reasonable attorney's fees
26 incurred by the person who is the subject of the information in
27 bringing the action.

1 (b) A person whose personal information has been sold in
2 violation of this section may sue for:

3 (1) the damages, costs, and fees authorized under
4 Subsection (a);

5 (2) injunctive relief; and

6 (3) any other equitable remedy determined to be
7 appropriate by the court.

8 (c) A district court has exclusive original jurisdiction
9 over a cause of action brought under this section.

10 SECTION 8. Section 730.013, Transportation Code, is amended
11 to read as follows:

12 Sec. 730.013. [~~RESALE OR~~] REDISCLOSURE; OFFENSE. (a) An
13 authorized recipient of personal information may not [~~resell or~~]
14 redisclose the personal information in the identical or a
15 substantially identical format the personal information was
16 disclosed to the recipient by the applicable agency.

17 (b) An authorized recipient of personal information may
18 [~~resell or~~] redisclose the information only for a use permitted
19 under Section 730.007.

20 (c) An [~~Any~~] authorized recipient who [~~resells or~~]
21 rediscloses personal information obtained from an agency shall be
22 required by that agency to:

23 (1) maintain for a period of not less than five years
24 records as to any person or entity receiving that information and
25 the permitted use for which it was obtained; and

26 (2) provide copies of those records to the agency on
27 request.

1 (c-1) A person who receives personal information from an
2 authorized recipient may not redisclose the personal information.

3 (c-2) An authorized recipient shall notify each person who
4 receives personal information from the authorized recipient that
5 the person may not redisclose the personal information.

6 (d) A person commits an offense if the person violates this
7 section. An offense under this subsection is a misdemeanor
8 punishable by a fine not to exceed \$100,000 per record of personal
9 information that is a subject of the violation [~~\$25,000~~].

10 SECTION 9. The heading to Section 730.016, Transportation
11 Code, is amended to read as follows:

12 Sec. 730.016. INELIGIBILITY OF CERTAIN PERSONS TO RECEIVE,
13 RETAIN, OR REDISCLOSE PERSONAL INFORMATION; OFFENSE.

14 SECTION 10. Section 730.016, Transportation Code, is
15 amended by amending Subsection (a) and adding Subsection (c) to
16 read as follows:

17 (a) A person who is convicted of an offense under this
18 chapter, or who violates a rule adopted by an agency relating to the
19 terms or conditions for a release of personal information to the
20 person:

21 (1) [7] is ineligible to receive personal information
22 under Section 730.007;

23 (2) not later than one year after the date of
24 conviction or of the agency's final determination of a rule
25 violation, shall delete from the person's records all personal
26 information received under this chapter; and

27 (3) may not redisclose personal information received

1 under this chapter.

2 (c) A person commits an offense if the person violates this
3 section. An offense under this subsection is a misdemeanor
4 punishable by a fine not to exceed \$100,000 per record of personal
5 information that is a subject of the violation.

6 SECTION 11. The changes in law made by this Act apply only
7 to an offense committed on or after the effective date of this Act.
8 An offense committed before the effective date of this Act is
9 governed by the law in effect on the date the offense was committed,
10 and the former law is continued in effect for that purpose. For
11 purposes of this section, an offense was committed before the
12 effective date of this Act if any element of the offense occurred
13 before that date.

14 SECTION 12. (a) Section 730.0121, Transportation Code, as
15 added by this Act, applies to a person who received personal
16 information under Chapter 730, Transportation Code, before the
17 effective date of this Act, and is not an authorized recipient of
18 that personal information under Chapter 730, Transportation Code,
19 as amended by this Act.

20 (b) Notwithstanding Subsection (a) of this section, an
21 agency to which Section 730.0121, Transportation Code, as added by
22 this Act, applies may not require a person who received personal
23 information from the agency before the effective date of this Act
24 and is not an authorized recipient, as defined by Section
25 730.003(1-a), Transportation Code, as added by this Act, of that
26 information to delete the information before the first anniversary
27 of the effective date of this Act.

1 SECTION 13. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2021.