

By: Riddle

H.B. No. 2407

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of, and to assistance provided to certain victims of, identity theft; providing civil penalties.

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

SECTION 1. Title 4, Business & Commerce Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. IDENTITY THEFT AND PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 46.001. DEFINITIONS. In this chapter:

(1) "Identifying information" has the meaning assigned by Section 32.51, Penal Code.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(3) "Required identifying information" means a copy of:

(A) a police report evidencing the filing of a criminal complaint alleging commission of an offense under Section 32.51, Penal Code, or a copy of a record created under Section 411.0421, Government Code; and

(B) identifying information used by the alleged perpetrator of an offense under Section 32.51, Penal Code.

[Sections 46.002-46.100 reserved for expansion]

SUBCHAPTER B. IDENTITY THEFT AND PROTECTION

Sec. 46.101. DUTY TO PROVIDE INFORMATION TO CONSUMER. (a)

1 On a request and with required identifying information provided by
2 a consumer, a person that engages in business with another person
3 who allegedly used the consumer's identifying information shall
4 disclose without charge to the consumer or a peace officer, not
5 later than the 10th business day after the date on which the person
6 receives the request:

7 (1) a copy of any application or transactional
8 information related to an alleged violation of Section 32.51, Penal
9 Code; and

10 (2) to the extent available, the identifying
11 information of the consumer that the person who allegedly
12 impersonated the consumer used to participate in the transaction or
13 complete the application or information related to the use of that
14 information.

15 (b) Before a person is required to disclose information
16 under Subsection (a) to a peace officer, the person may require the
17 consumer to submit a written statement dated and signed by the
18 consumer. The statement must:

19 (1) state that the consumer may revoke authorization
20 of the disclosure at any time before the disclosure is made;

21 (2) authorize the disclosure for a certain period of
22 time;

23 (3) specify the name of the agency or department to
24 whom the disclosure is authorized; and

25 (4) identify the information that is requested to be
26 disclosed.

27 (c) A person may not be held liable under this section if the

1 person does not make a disclosure to a peace officer because a
2 consumer fails to provide the authorization requested by the person
3 as permitted by Subsection (b).

4 (d) A person who violates this section is liable to the
5 state for a civil penalty in an amount not to exceed \$250 for each
6 violation. The attorney general or the prosecuting attorney in the
7 county in which the violation occurs may bring suit to recover the
8 civil penalty imposed under this section.

9 Sec. 46.102. BUSINESS RECEIPT CONTAINING DEBIT OR CREDIT
10 CARD INFORMATION. (a) This section does not apply to a
11 transaction in which the sole means of recording a person's debit or
12 credit card account number on a receipt or other document
13 evidencing the transaction is by handwriting or by an imprint or
14 copy of the debit or credit card.

15 (b) A person that accepts a debit or credit card for the
16 transaction of business may not use a cash register or other machine
17 to print a receipt or other document that evidences the transaction
18 unless at least four digits of the cardholder's credit card account
19 number or debit card account number are omitted from the receipt or
20 document.

21 (c) A person who violates this section is liable to the
22 state for a civil penalty in an amount not to exceed \$500 for each
23 calendar month during which a violation occurs. The civil penalty
24 may not be imposed for more than one violation that occurs in a
25 month.

26 (d) The attorney general or the prosecuting attorney in the
27 county in which the violation occurs may bring suit to recover the

1 civil penalty imposed under Subsection (c).

2 SECTION 2. (a) Except as provided by Subsection (b) of this
3 section, this Act takes effect September 1, 2003.

4 (b) Section 46.102, Business & Commerce Code, as added by
5 this Act, takes effect January 1, 2004.