

BILL ANALYSIS

C.S.H.B. 1130
By: Cook, Byron
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the Business & Commerce Code does not require a person to provide a privacy policy to an individual when they require that individual to disclose his/her social security number to obtain goods or services or enter into a business transaction. With the increasing threat of identity theft, the purpose of this bill is to add Sec 35.581 to Subchapter D, Chapter 35 of the Business & Commerce code to make a privacy policy necessary when a person requires disclosure of an individual's social security number to obtain goods or services or enter into a business transaction.

RULEMAKING AUTHORITY

There is no rulemaking authority granted in this legislation.

ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business and Commerce Code by adding Section 35.581. The Section states that a person cannot require another person to disclose his/her social security number when entering into a business transaction unless the person adopts and maintains a privacy policy. It also gives guidelines for the contents of a privacy policy and exemptions to certain entities. The Attorney General's office is given authority to bring a civil penalty not to exceed \$500 for each calendar month during which a violation occurs.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Subsection (a) (2) in CSHB 1130 is changed to read "makes the privacy policy available to the individual." Subsections (b) and (c) of HB 1130 are removed in full. Subsection (b) of CSHB 1130 is added to describe the requirements of a privacy policy. Subsection (c) of CSHB 1130 is added to describe entities that are exempt from the privacy policy requirement. Subsection (d) of CSHB 1130 creates a civil penalty in an amount not to exceed \$500 for each calendar month in which a violation occurs. The Attorney General or the prosecuting attorney in the county where the violation occurred may bring suit to recover the penalty imposed. Subsection (e) of CSHB 1130 states that the Attorney General may bring an action in the name of the state to restrain or enjoin a person from violating subsection (a).