

BILL ANALYSIS

Senate Research Center
79R12945 HLT-D

C.S.S.B. 674
By: West, Royce
Business & Commerce
4/14/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

According to the Federal Trade Commission (FTC), Texas is second in the nation in the number of identity theft cases reported. Identity theft is considered to be the fastest-growing crime in the United States affecting 27 million people over the previous five years, according to a 2003 FTC report. Texas' Crime Victim Clearinghouse reports that financial identity theft is primarily accomplished through the use of the victim's social security number. According to the Texas Commission on Law Enforcement Officer Standards and Education, more than 20,000 Texans were identity crime victims in 2003, up from 14,000 in 2002.

The Identity Theft Resource Center recommends the passage of laws to restrict companies from requesting a person's social security number for use as identifying information. Although there is no legal requirement, some businesses do request a customer's social security number for various reasons.

The FTC lists "business record theft" as one of the ways a person's identifying information can be stolen. This can be done by employees taking files from offices or through hacking into electronic files.

Federal statutes currently prohibit any federal, state, or local government agency from denying any right, privilege, or benefit provided by law for a person's refusal to disclose his social security number. There is no similar restriction applicable to private businesses.

State law presently bans the printing of an individual's social security number on a card in order to access a product or service unless the applicant has made such request.

C.S.S.B. 674 restricts the use of a person's social security number by non-financial entities. C.S.S.B. 674 does not limit the use of the social security number for governmental reasons.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.62, as follows:

Sec. 35.62. PROHIBITED ACTS WITH RESPECT TO USE OF CUSTOMERS' SOCIAL SECURITY NUMBERS. (a) Defines "customer" and "financial institution."

(b) Prohibits a person from requesting a customer's social security number, or another number that includes four or more consecutive digits of a customer's social security number, as an identifier unless the number is needed to complete a credit check that is required to provide a service or product requested by the customer.

(c) Requires a person that requests a person's social security number to complete a credit check under this section to destroy each record of the number by shredding, erasing, or other means after the credit check is completed.

(d) Provides that this section does not apply to a financial institution, a governmental entity, a certain covered entity as defined in the Insurance Code, or a person required to maintain and disseminate a privacy policy under certain federal law.

(e) Provides that a person that violates this section is liable to the state for a civil penalty of \$1,000 for each violation. Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty imposed under this section. Authorizes the attorney general to bring an action in the name of the state to restrain or enjoin a business from violating this section.

SECTION 2. Effective date: September 1, 2005.