

BILL ANALYSIS

S.B. 1465
By: Whitmire
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The interim study of the Criminal Justice Committee found that an issue in need of attention is the use of false identification by minors seeking to purchase tobacco and/or alcohol. S.B. 1465 amends Subchapter H, Chapter 161, Health and Safety Code, by adding Section 161.0825 to address the problem of underage persons purchasing tobacco products. S.B. 1465 allows a retail store to utilize transaction scan devices as a means of reading driver's licenses, commercial driver's licenses, or identification certificates that are presented to the store as proof of age. S.B. 1465 prohibits the retailer from capturing or storing the information and provides that doing so is a Class A misdemeanor offense.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 161, Health and Safety Code, by adding Section 161.0825, as follows:

Sec. 161.0825. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION. (a) Defines "transaction scan device."

(b) Authorizes a person to access electronically readable information on a driver's license, commercial driver's license, or identification certificate for the purpose of complying with Section 161.082 (Sale of Cigarettes or Tobacco Products to Persons Younger Than 18 Years of Age Prohibited; Proof of Age Required).

(c) Prohibits information accessed under this section from being sold or otherwise disseminated to a third party for any purpose, including any marketing, advertising, or promotional activities. Authorizes the information to be obtained by a court order or on proper request by the comptroller or a law enforcement officer or agency.

(d) Provides that a person who violates this section commits a Class A misdemeanor.

(e) Provides that it is an affirmative defense to prosecution under Section 161.082 (Sale of Cigarettes or Tobacco Products to Persons Younger Than 18 Years of Age Prohibited; Proof of Age Required) that:

(1) a transaction scan device identified a license or certificate as valid and the defendant accessed the information and relied on the results in good faith; or

(2) if the defendant is the owner of a store in which cigarettes or tobacco products are sold at retail, the offense under Section 161.082 occurs in connection with a sale by an employee of the owner, and the owner had provided the employee with a transaction scan device in working condition and adequate training in the use of the transaction scan device.

SECTION 2. Amends Section 521.126(d), Transportation Code, to include a person acting as authorized by Section 161.0825, Health and Safety Code, amongst the entities to which the prohibition provided by Subsection (b) does not apply.

SECTION 3. Amends Section 106.03, Alcoholic Beverage Code, by adding Subsection (d), to provide that Subsection (b) does not apply to a person who accesses electronically readable information under Section 109.61 (Use of Certain Electronically Readable Information) that identifies a driver's license or identification certificate as invalid.

SECTION 4. Amends Section 109.61, Alcoholic Beverage Code, by adding Subsection (e), to provide the conditions for an affirmative defense to prosecution under this code, for an offense having the age of the person as an element.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2005.

EFFECTIVE DATE

September 1, 2005.