

By: Hughes

H.B. No. 424

A BILL TO BE ENTITLED

AN ACT

relating to the safety of hotel guests; providing penalties.

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

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1182 to read as follows:

Sec. 411.1182. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; APPLICANTS FOR HOTEL EMPLOYMENT. (a) In this section, "hotel" and "hotel employer" have the meanings assigned by Section 766.001, Health and Safety Code.

(b) A hotel employer is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who:

(1) is an applicant for a position of employment in a hotel to whom an offer of employment is made; and

(2) may be reasonably required to have access to a guest room in the hotel.

(c) The hotel employer may not destroy criminal history record information that relates to a person before the second anniversary of the date the person's employment with the hotel employer ends or the hotel employer determines not to employ the person, as applicable.

SECTION 2. Subtitle A, Title 9, Health and Safety Code, is amended by adding Chapter 761 to read as follows:

CHAPTER 761. HOTEL SAFETY

1       Sec. 761.001. DEFINITIONS. In this chapter:

2           (1) "Door viewer" means a permanently installed device  
3 in an exterior door of a guest room that allows a person inside the  
4 guest room to view a person outside the door.

5           (2) "Exterior door" means a door that opens to the  
6 exterior of the hotel or to a hallway or community area of the  
7 hotel.

8           (3) "Hotel" means a facility that provides lodging to  
9 guests for compensation, including a hotel, motel, inn, bed and  
10 breakfast facility, or similar facility. The term does not  
11 include:

12                   (A) a hospital, sanitarium, or nursing home; or

13                   (B) a building in which all or substantially all  
14 of the occupants have the right to use or possess the guest room for  
15 at least 28 consecutive days.

16       Sec. 761.002. DOOR VIEWER REQUIRED. (a) A person operating  
17 a hotel shall equip each exterior door of each guest room with a  
18 door viewer. The door viewer must be:

19                   (1) a clear glass pane or one-way mirror; or

20                   (2) a peephole having a barrel with a one-way lens of  
21 glass or other substance providing an angle view of not less than  
22 160 degrees.

23       (b) Subsection (a) does not apply to an exterior door  
24 through which a person outside the door may be clearly seen without  
25 the use of a door viewer.

26       Sec. 761.003. INVESTIGATIVE AND ENFORCEMENT AUTHORITY. (a)  
27 The attorney general or a district or county attorney may:

1           (1) investigate an alleged violation of this chapter;  
2 and  
3           (2) enforce any penalty or remedy authorized by this  
4 chapter.

5           (b) The attorney general or a district or county attorney  
6 may recover reasonable expenses, including court costs, attorney's  
7 fees, investigative costs, witness fees, and deposition expenses,  
8 incurred in obtaining an injunction or recovering a civil penalty  
9 under this chapter.

10           Sec. 761.004. SUIT FOR ENFORCEMENT. (a) The attorney  
11 general or a district or county attorney may file suit against a  
12 person who violates this chapter to:

13           (1) obtain an injunction to enjoin the person from  
14 violating this chapter; or

15           (2) recover a civil penalty under Section 761.005.

16           (b) Venue for a suit filed under this section is in a  
17 district court located in:

18           (1) Travis County; or

19           (2) the county in which the defendant resides.

20           Sec. 761.005. AMOUNT OF CIVIL PENALTY. Except as provided  
21 by Section 761.006, a person who violates this chapter is subject to  
22 a civil penalty of not more than \$1,000 for each violation, but not  
23 to exceed a total of \$10,000.

24           Sec. 761.006. VIOLATION OF INJUNCTION. (a) The attorney  
25 general or a district or county attorney may file suit to recover a  
26 civil penalty against a person who violates an injunction issued  
27 under Section 761.004. The amount of the civil penalty for each

1 violation may not exceed \$10,000. The total penalty may not exceed  
2 \$20,000.

3 (b) Venue for a suit filed under this section is in the  
4 district court that issued the injunction that is the subject of the  
5 civil penalty.

6 Sec. 761.007. DEPOSIT IN COMPENSATION TO VICTIMS OF CRIME  
7 FUND. A civil penalty collected under this chapter by a district or  
8 county attorney shall be deposited to the credit of the  
9 compensation to victims of crime fund.

10 SECTION 3. Section 765.001(6), Health and Safety Code, is  
11 amended to read as follows:

12 (6) "Residential dwelling project" means a house,  
13 condominium, apartment building, duplex, or similar facility that  
14 is used as a dwelling [~~or a facility that provides lodging to guests~~  
15 ~~for compensation including a hotel, motel, inn, bed and breakfast~~  
16 ~~facility, or similar facility~~]. The term does not include a nursing  
17 home or other related institution regulated under Chapter 242.

18 SECTION 4. Subtitle A, Title 9, Health and Safety Code, is  
19 amended by adding Chapter 766 to read as follows:

20 CHAPTER 766. CRIMINAL HISTORY RECORD INFORMATION CHECKS OF HOTEL  
21 EMPLOYEES

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Sec. 766.001. DEFINITIONS. In this chapter:

24 (1) "Department" means the Department of Public  
25 Safety.

26 (2) "Hotel" means a facility that provides lodging to  
27 guests for compensation, including a hotel, motel, inn, bed and

1 breakfast facility, or similar facility.

2 (3) "Hotel employer" means a person who employs  
3 employees at a hotel.

4 Sec. 766.002. APPLICATION OF CHAPTER; EXCEPTION. (a) This  
5 chapter applies to each applicant for a position of employment in a  
6 hotel to whom an offer of employment is made and who, in the course  
7 and scope of the employment, may be reasonably required to have  
8 access to a guest room in the hotel.

9 (b) This chapter does not apply to a person employed by a  
10 guest of a hotel.

11 [Sections 766.003-766.050 reserved for expansion]

12 SUBCHAPTER B. VERIFICATION OF CRIMINAL HISTORY RECORD INFORMATION

13 Sec. 766.051. VERIFICATION OF CRIMINAL HISTORY RECORD  
14 INFORMATION. A hotel employer may request an applicant to disclose  
15 to the employer the applicant's criminal history at any time before  
16 an offer of employment is made to the applicant. After an offer of  
17 employment is made, the hotel employer shall obtain through the  
18 department any criminal history record information that is  
19 maintained by the department relating to that applicant and that  
20 the department is authorized to release under Chapter 411,  
21 Government Code.

22 Sec. 766.052. DEPARTMENT RULES. (a) The department may  
23 adopt rules or apply rules adopted under Section 411.086,  
24 Government Code, regarding the method of requesting information  
25 under this chapter.

26 (b) The department may adopt rules relating to a hotel  
27 employer's access to criminal history record information,

1 including requirements for submission of:

2 (1) the hotel employer's complete name, current street  
3 address, and federal employer identification number;

4 (2) an affidavit by an authorized representative of  
5 the hotel employer that the individual whose criminal history is  
6 requested has been offered a position of employment by the employer  
7 in a hotel and that, in the course and scope of the employment, the  
8 individual may be reasonably required to have access to a guest room  
9 in the hotel; and

10 (3) the complete name, date of birth, social security  
11 number, and current street address of the individual signing the  
12 affidavit.

13 (c) The department may not provide a hotel employer with the  
14 criminal history record information of an applicant under this  
15 chapter unless the employer is entitled to receive the information  
16 under Section 411.1182, Government Code.

17 Sec. 766.053. PRIVILEGE. Criminal history record  
18 information received by a hotel employer under this chapter is  
19 privileged and is for the exclusive use of the employer. The hotel  
20 employer may disclose the information to an authorized officer,  
21 employee, or agent of the employer only for the purpose of making a  
22 determination regarding the suitability of an individual for  
23 employment. Otherwise, a hotel employer, or any individual to whom  
24 the employer may have disclosed information, may not release or  
25 otherwise disclose the information received under this chapter to  
26 any person or governmental entity except:

27 (1) on court order;

1           (2) on a proper discovery request during litigation;  
2 or  
3           (3) with the written consent of the individual being  
4 investigated.

5           [Sections 766.054-766.100 reserved for expansion]

6           SUBCHAPTER C. ENFORCEMENT PROVISIONS

7           Sec. 766.101. INVESTIGATIVE AND ENFORCEMENT AUTHORITY. (a)

8 The attorney general or a district or county attorney may:

9           (1) investigate an alleged violation of this chapter;

10 and

11           (2) enforce any penalty or remedy authorized by this

12 subchapter.

13           (b) The attorney general or a district or county attorney  
14 may recover reasonable expenses, including court costs, attorney's  
15 fees, investigative costs, witness fees, and deposition expenses,  
16 incurred in obtaining an injunction or recovering a civil penalty  
17 under this chapter.

18           Sec. 766.102. SUIT FOR ENFORCEMENT. (a) The attorney  
19 general or a district or county attorney may file suit against a  
20 person who violates this chapter to:

21           (1) obtain an injunction to enjoin the person from  
22 violating this chapter; or

23           (2) recover a civil penalty under Section 766.103.

24           (b) Venue for a suit filed under this section is in a  
25 district court located in:

26           (1) Travis County; or

27           (2) the county in which the defendant resides.

1       Sec. 766.103. AMOUNT OF CIVIL PENALTY. Except as provided  
2 by Section 766.104, a person who violates this chapter is subject to  
3 a civil penalty of not more than \$1,000 for each violation, but not  
4 to exceed a total of \$10,000.

5       Sec. 766.104. VIOLATION OF INJUNCTION. (a) The attorney  
6 general or a district or county attorney may file suit to recover a  
7 civil penalty against a person who violates an injunction issued  
8 under this subchapter. The amount of the civil penalty for each  
9 violation may not exceed \$10,000. The total penalty may not exceed  
10 \$20,000.

11       (b) Venue for a suit filed under this section is in the  
12 district court that issued the injunction that is the subject of the  
13 civil penalty.

14       Sec. 766.105. DEPOSIT IN COMPENSATION TO VICTIMS OF CRIME  
15 FUND. A civil penalty collected under this subchapter by a district  
16 or county attorney shall be deposited to the credit of the  
17 compensation to victims of crime fund.

18       SECTION 5. This Act takes effect September 1, 2005.