

AN ACT

relating to the return of merchandise; providing a civil penalty.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.581 to read as follows:

Sec. 35.581. (a) A merchant or a third party under contract with a merchant who requires a consumer returning an item of merchandise to provide the consumer's driver's license or social security number may use the number or numbers provided by the consumer solely for identification purposes if the consumer does not have a valid receipt for the item being returned and is seeking a cash, credit, or store credit refund.

(b) A merchant or third party under contract with a merchant may not disclose a consumer's driver's license or social security number to any other merchant or third party not involved in the initial transaction.

(c) A merchant or third party under contract with a merchant may only use a consumer's driver's license or social security number to monitor, investigate, or prosecute fraudulent return of merchandise.

(d) A merchant or third party under contract with a merchant shall destroy or arrange for the destruction of records containing the consumer's driver's license or social security number at the expiration of six months from the date of the last transaction.

1 (e) A person who violates this section is liable to the
2 state for a civil penalty in an amount not to exceed \$500 for each
3 violation. The attorney general or the prosecuting attorney in the
4 county in which the violation occurs may bring suit to recover the
5 civil penalty imposed under this section.

6 (f) The attorney general may bring an action in the name of
7 the state to restrain or enjoin a person from violating this
8 section.

9 SECTION 2. Section 35.581, Business & Commerce Code, as
10 added by this Act, applies only to an item of merchandise that is
11 returned on or after the effective date of this Act.

12 SECTION 3. This Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 853 was passed by the House on April 29, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 853 on May 27, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 853 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor