

1-1 By: Solomons, et al. (Senate Sponsor - Harris) H.B. No. 853
1-2 (In the Senate - Received from the House May 2, 2005;
1-3 May 6, 2005, read first time and referred to Committee on Business
1-4 and Commerce; May 20, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 May 20, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 853 By: Averitt

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the return of merchandise; providing a civil penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
1-13 Code, is amended by adding Section 35.581 to read as follows:

1-14 (a) A merchant or a third party under contract with a
1-15 merchant who requires a consumer returning an item of merchandise
1-16 to provide the consumer's driver's license or social security
1-17 number may use the number or numbers provided by the consumer solely
1-18 for identification purposes if the consumer does not have a valid
1-19 receipt for the item being returned and is seeking a cash, credit,
1-20 or store credit refund.

1-21 (b) A merchant or third party under contract with a merchant
1-22 may not disclose a consumer's driver's license or social security
1-23 number to any other merchant or third party not involved in the
1-24 initial transaction.

1-25 (c) A merchant or third party under contract with a merchant
1-26 may only use a consumer's driver's license or social security number
1-27 to monitor, investigate, or prosecute fraudulent return of
1-28 merchandise.

1-29 (d) A merchant or third party under contract with a merchant
1-30 shall destroy or arrange for the destruction of records containing
1-31 the consumer's driver's license or social security number at the
1-32 expiration of six months from the date of the last transaction.

1-33 (e) A person who violates this section is liable to the
1-34 state for a civil penalty in an amount not to exceed \$500 for each
1-35 violation. The attorney general or the prosecuting attorney in the
1-36 county in which the violation occurs may bring suit to recover the
1-37 civil penalty imposed under this section.

1-38 (f) The attorney general may bring an action in the name of
1-39 the state to restrain or enjoin a person from violating this
1-40 section.

1-41 SECTION 2. Section 35.581, Business & Commerce Code, as
1-42 added by this Act, applies only to an item of merchandise that is
1-43 returned on or after the effective date of this Act.

1-44 SECTION 3. This Act takes effect September 1, 2005.

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