

By: Ritter

H.B. No. 3253

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of certain electronically readable information  
3 on a driver's license or identification certificate to comply with  
4 certain alcohol and tobacco related laws; providing a penalty.

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

6 SECTION 1. Subchapter H, Chapter 161, Health and Safety  
7 Code, is amended by adding Section 161.0825 to read as follows:

8 Sec. 161.0825. USE OF CERTAIN ELECTRONICALLY READABLE  
9 INFORMATION. (a) In this section, "transaction scan device" means  
10 a device capable of deciphering electronically readable  
11 information on a driver's license, commercial driver's license, or  
12 identification certificate.

13 (b) A person may access electronically readable information  
14 on a driver's license, commercial driver's license, or  
15 identification certificate for the purpose of complying with  
16 Section 161.082.

17 (c) A person may not retain an electronic database of  
18 information accessed under this section.

19 (d) Information accessed under this section may not be  
20 marketed in any manner.

21 (e) A person who violates this section commits an offense.  
22 An offense under this section is a Class A misdemeanor.

23 (f) It is an affirmative defense to prosecution under  
24 Section 161.082 that:

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

4           (2) if the defendant is the owner of a store in which  
5 cigarettes or tobacco products are sold at retail, the offense  
6 under Section 161.082 occurs in connection with a sale by an  
7 employee of the owner, and the owner had provided the employee with:

8                   (A) a transaction scan device in working  
9 condition; and

10                   (B) adequate training in the use of the  
11 transaction scan device.

12           SECTION 2. Section 521.126(d), Transportation Code, is  
13 amended to read as follows:

14           (d) The prohibition provided by Subsection (b) does not  
15 apply to:

16                   (1) an officer or employee of the department who  
17 accesses or uses the information for law enforcement or government  
18 purposes;

19                   (2) a peace officer, as defined by Article 2.12, Code  
20 of Criminal Procedure, acting in the officer's official capacity;

21                   (3) a license deputy, as defined by Section 12.702,  
22 Parks and Wildlife Code, issuing a license, stamp, tag, permit, or  
23 other similar item through use of a point-of-sale system under  
24 Section 12.703, Parks and Wildlife Code; ~~or~~

25                   (4) a person acting as authorized by Section 109.61,  
26 Alcoholic Beverage Code; or

27                   (5) a person acting as authorized by Section 161.0825,

1 Health and Safety Code.

2 SECTION 3. Section 106.03, Alcoholic Beverage Code, is  
3 amended by adding Subsection (d) to read as follows:

4 (d) Subsection (b) does not apply to a person who accesses  
5 electronically readable information under Section 109.61 that  
6 identifies a driver's license or identification certificate as  
7 invalid.

8 SECTION 4. Section 109.61, Alcoholic Beverage Code, is  
9 amended by amending Subsection (b) and adding Subsection (e) to  
10 read as follows:

11 (b) A person may not retain information accessed under this  
12 section unless the commission by rule requires the information to  
13 be retained. The person may not retain the information longer than  
14 the commission requires. The commission may not require  
15 information accessed to be retained in an electronic database.

16 (e) It is an affirmative defense to prosecution under this  
17 code, for an offense having as an element the age of a person, that:

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

21 (2) if the defendant is the owner of a store in which  
22 alcoholic beverages are sold at retail, the offense under Section  
23 161.082, Health and Safety Code, occurs in connection with a sale by  
24 an employee of the owner, and the owner had provided the employee  
25 with:

26 (A) a transaction scan device in working  
27 condition; and

1                    (B) adequate training in the use of the  
2 transaction scan device.

3            SECTION 5. (a) The change in law made by this Act applies  
4 only to an offense committed on or after the effective date of this  
5 Act. For purposes of this section, an offense is committed before  
6 the effective date of this Act if any element of the offense occurs  
7 before the effective date.

8            (b) An offense committed before the effective date of this  
9 Act is covered by the law in effect when the offense was committed,  
10 and the former law is continued in effect for that purpose.

11            SECTION 6. This Act takes effect September 1, 2005.