

By: West, Royce

S.B. No. 1182

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the fraudulent use or possession of a person's  
3 identifying information and to certain fictitious documents.

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

5 SECTION 1. Section 32.51, Penal Code, is amended by  
6 amending Subsections (b), (c), and (e) and adding Subsection (f) to  
7 read as follows:

8 (b) A person commits an offense if the person:

9 (1) obtains, possesses, transfers, or uses  
10 identifying information of another person without the other  
11 person's consent and with intent to harm or defraud another; or

12 (2) possesses two or more documents or instruments, at  
13 least one of which purports to identify the actor as the person  
14 described or pictured in the document or instrument, and each of  
15 which contains:

16 (A) identifying information of a person other  
17 than the actor; or

18 (B) information that the actor falsely purports  
19 to be the actor's identifying information.

20 (c) An offense under this section is a state jail felony,  
21 except that the offense is a felony of the third degree if it is  
22 shown on the trial of the offense that the defendant has been  
23 previously convicted of an offense under this section.

24 (e) Except as provided by this subsection, if ~~if~~ conduct

1 that constitutes an offense under this section also constitutes an  
2 offense under any other law, the actor may be prosecuted under this  
3 section or the other law. If conduct that constitutes an offense  
4 under Subsection (b)(2) also constitutes an offense under Section  
5 521.453(a), Transportation Code, the actor may be prosecuted only  
6 under Section 521.453(a), Transportation Code.

7 (f) It is a defense to prosecution under Subsection  
8 (b)(2)(A) that the actor had the consent of the other person to  
9 possess that person's identifying information.

10 SECTION 2. Section 521.453(d), Transportation Code, is  
11 amended to read as follows:

12 (d) For purposes of this section, an offense under  
13 Subsection (a) is a Class C misdemeanor. If conduct that  
14 constitutes an offense under Subsection (a) also constitutes an  
15 offense under Section 32.51(b)(2), Penal Code, the actor may not be  
16 prosecuted under Section 32.51(b)(2), Penal Code.

17 SECTION 3. (a) The change in law made by this Act applies  
18 only to an offense committed on or after the effective date of this  
19 Act. For the purposes of this section, an offense was committed  
20 before the effective date of this Act if any element of the offense  
21 occurred before that date.

22 (b) An offense committed before the effective date of this  
23 Act is governed by the law in effect when the offense was committed,  
24 and the former law is continued in effect for that purpose.

25 SECTION 4. This Act takes effect September 1, 2005.