

AN ACT

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

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

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

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

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

(c) Information accessed under this section may not be sold or otherwise disseminated to a third party for any purpose, including any marketing, advertising, or promotional activities. The information may be obtained by court order or on proper request by the comptroller, a law enforcement officer, or a law enforcement agency.

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

1 (e) It is an affirmative defense to prosecution under
2 Section 161.082 that:

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

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

10 (A) a transaction scan device in working
11 condition; and

12 (B) adequate training in the use of the
13 transaction scan device.

14 SECTION 2. Subsection (d), Section 521.126, Transportation
15 Code, is amended to read as follows:

16 (d) The prohibition provided by Subsection (b) does not
17 apply to:

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

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

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

27 (4) a person acting as authorized by Section 109.61,

1 Alcoholic Beverage Code; or

2 (5) a person acting as authorized by Section 161.0825,
3 Health and Safety Code.

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

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

10 SECTION 4. Section 109.61, Alcoholic Beverage Code, is
11 amended by adding Subsection (e) to read as follows:

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

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

17 (2) if the defendant is the owner of a store in which
18 alcoholic beverages are sold at retail, the offense occurs in
19 connection with a sale by an employee of the owner, and the owner
20 had provided the employee with:

21 (A) a transaction scan device in working
22 condition; and

23 (B) adequate training in the use of the
24 transaction scan device.

25 SECTION 5. (a) The change in law made by this Act applies
26 only to an offense committed on or after the effective date of this
27 Act. For purposes of this section, an offense is committed before

1 the effective date of this Act if any element of the offense occurs
2 before the effective date.

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1465 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 23, 2005, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1465 passed the House, with amendment, on May 19, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor