

By: Whitmire

S.B. No. 1465

A BILL TO BE ENTITLED

AN ACT

1  
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) Information accessed under this section may not be sold  
18 or otherwise disseminated to a third party for any purpose,  
19 including any marketing, advertising, or promotional activities.  
20 The information may be obtained by court order or on proper request  
21 by the comptroller or a law enforcement officer or agency.

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

24 (e) It is an affirmative defense to prosecution under

1 Section 161.082 that:

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

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

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

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

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

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

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

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

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

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

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

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

5           (d) Subsection (b) does not apply to a person who accesses  
6 electronically readable information under Section 190.61 that  
7 identifies a driver's license or identification certificate as  
8 invalid.

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

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

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

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

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

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

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

1 before the effective date.

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

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