

1-1 By: Whitmire S.B. No. 1465
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 14, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 14, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1465 By: Ellis

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

1-10
1-11 relating to the use of certain electronically readable information
1-12 on a driver's license or identification certificate to comply with
1-13 certain alcohol and tobacco related laws; providing a penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter H, Chapter 161, Health and Safety
1-16 Code, is amended by adding Section 161.0825 to read as follows:

1-17 Sec. 161.0825. USE OF CERTAIN ELECTRONICALLY READABLE
1-18 INFORMATION. (a) In this section, "transaction scan device" means
1-19 a device capable of deciphering electronically readable
1-20 information on a driver's license, commercial driver's license, or
1-21 identification certificate.

1-22 (b) A person may access electronically readable information
1-23 on a driver's license, commercial driver's license, or
1-24 identification certificate for the purpose of complying with
1-25 Section 161.082.

1-26 (c) Information accessed under this section may not be sold
1-27 or otherwise disseminated to a third party for any purpose,
1-28 including any marketing, advertising, or promotional activities.
1-29 The information may be obtained by court order or on proper request
1-30 by the comptroller or a law enforcement officer or agency.

1-31 (d) A person who violates this section commits an offense.
1-32 An offense under this section is a Class A misdemeanor.

1-33 (e) It is an affirmative defense to prosecution under
1-34 Section 161.082 that:

1-35 (1) a transaction scan device identified a license or
1-36 certificate as valid and the defendant accessed the information and
1-37 relied on the results in good faith; or

1-38 (2) if the defendant is the owner of a store in which
1-39 cigarettes or tobacco products are sold at retail, the offense
1-40 under Section 161.082 occurs in connection with a sale by an
1-41 employee of the owner, and the owner had provided the employee with:

1-42 (A) a transaction scan device in working
1-43 condition; and

1-44 (B) adequate training in the use of the
1-45 transaction scan device.

1-46 SECTION 2. Subsection (d), Section 521.126, Transportation
1-47 Code, is amended to read as follows:

1-48 (d) The prohibition provided by Subsection (b) does not
1-49 apply to:

1-50 (1) an officer or employee of the department who
1-51 accesses or uses the information for law enforcement or government
1-52 purposes;

1-53 (2) a peace officer, as defined by Article 2.12, Code
1-54 of Criminal Procedure, acting in the officer's official capacity;

1-55 (3) a license deputy, as defined by Section 12.702,
1-56 Parks and Wildlife Code, issuing a license, stamp, tag, permit, or
1-57 other similar item through use of a point-of-sale system under
1-58 Section 12.703, Parks and Wildlife Code; ~~or~~

1-59 (4) a person acting as authorized by Section 109.61,
1-60 Alcoholic Beverage Code; or

1-61 (5) a person acting as authorized by Section 161.0825,
1-62 Health and Safety Code.

1-63 SECTION 3. Section 106.03, Alcoholic Beverage Code, is

amended by adding Subsection (d) to read as follows:

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

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

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

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

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

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

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

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

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

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

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