

BILL ANALYSIS

S.B. 876
By: Seliger
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Department of Public Safety (DPS) maintains driving records for persons licensed to drive in Texas and updates this information as violation convictions or driver's license suspensions or revocations occur. The driving record is a critical element in helping employers and insurance companies understand the driving habits of their employees and customers. In 36 other states, certain entities, such as employers and insurance companies, have the option of subscribing to services that compare their employee or policyholder databases to a state's records database. The timely access of the record is of paramount interest to public safety. Although this monitoring enhances the value of the driver data, DPS is not authorized to provide such information other than as part of a three-year driving record.

S.B. 876 enables DPS to enhance its existing provision of driver information to certain entities by authorizing DPS to establish a driver record monitoring pilot program for the proactive monitoring of driving records. The bill also provides safeguards to ensure that those entering into the pilot program will not directly or indirectly disclose information received from DPS to a third party without the written consent of the DPS.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 of this bill.

ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.060, as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM. (a) Authorizes the Department of Public Safety (DPS) to establish, by rule, a driver record monitoring pilot program (program), the term of which are prohibited from exceeding one year.

(b) Authorizes DPS, under the program, to enter into a contract with certain persons to provide driver record monitoring services and certain information from DPS driver's license records.

(c) Requires a contract between DPS and certain persons to require DPS and the person with whom DPS has contracted to take certain actions.

(d) Authorizes the attorney general to file a suit against a person with whom DPS has contracted under this section for injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from DPS under the contract in a manner that violates the terms of the contract, or for a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) Authorizes the attorney general, if the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, to recover reasonable expenses, court costs, investigative costs, and attorney's fees. Provides that each day a violation

continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) Provides that a violation of the terms of a contract entered into with DPS by the person with whom DPS has contracted is a false, misleading, or deceptive act or practice under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, Business & Commerce Code.

(g) Requires a civil action brought under this section to be filed in a district court in Travis County, or in any county in which the violation occurred.

(h) Provides that a person with whom DPS has contracted under this section commits an offense, if the person directly or indirectly discloses information received from the DPS under the contract in a manner that violates the terms of the contract. Provides that an offense under this Subsection is a Class B misdemeanor. Provides that if conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(i) Requires DPS to impose a fee on each person with whom it contracts for the services provided by DPS under the contract. Requires the fee to be reasonable enough to cover the costs incurred by DPS in entering into a contract with and providing services to the person.

(j) Authorizes DPS to establish a reasonable deadline for a person to apply to contract with DPS under this section, and prohibits DPS from entering into a contract with a person who fails to apply before that deadline.

(k) Requires the services provided by DPS under this section to be provided by, through, or in conjunction with the interactive system established under Section 521.055 (Establishment of Interactive System) to the fullest extent practicable.

(l) Authorizes the Texas Transportation Commission to authorize DPS to implement the program as a permanent program at the conclusion of the term of the program.

(m) Requires DPS, before it recommends that the program become permanent, to submit a report containing an analysis of the scope, effectiveness, and cost benefits of the program to certain officials. Requires the report to include certain information.

SECTION 2. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.