

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1252  
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Transportation & Homeland Security  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Under current law, a retailer who sells an age-restricted product, such as alcohol, cigarettes, or tobacco, is generally governed by a criminal negligence standard to enforce the legal age of the purchaser by use of a government issued identification card or document required to prove age. However, the potential exists for such identification cards or documents to be duplicated and used by an underaged person. Use of an electronic fingerprint verification system may eliminate the problem of fake identification documents. The use of this system, coupled with legitimate identification, may allow a retailer to ascertain the customer's eligibility to purchase the product by using a scan of the customer's fingerprint to access the age verification records electronically.

C.S.S.B. 1252 authorizes a retailer of age-restricted products to satisfy the standards of the statutes and administrative rules applicable to the product by using an electronic fingerprint verification system to determine whether the customer is of legal age. This bill provides for a person's fingerprint to be coupled with government-issued identification.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.501, as follows:

Sec. 35.501. AGE VERIFICATION THROUGH ELECTRONIC FINGERPRINT ANALYSIS. (a) Defines "electronic fingerprint verification system."

(b) Authorizes a seller who is required by law to verify the age of a purchaser of a good or service to satisfy that requirement by using an electronic fingerprint verification system (system) as provided by this section.

(c) Authorizes a seller or certain entities connected to the seller to enroll purchasers in a system. Requires the purchaser, to become enrolled into the system, to provide the person enrolling the purchaser with a government-issued identification document (ID) that indicates the purchaser's age and includes an electronic image of the person's fingerprint.

(d) Authorizes the seller to use the system to verify a purchaser's age, after the purchase is enrolled in the system, before making a sale. Provides that the seller is not required to ask for the purchaser's ID in the course of the sale.

(e) Authorizes multiple sellers to share a single system. Authorizes a seller to rely on the enrollment services of another seller, or certain entities in connection to the seller, if both sellers use the same system.

(f) Requires the operator of a system that malfunctions to cause the part of the system that malfunctions to cease operation and to notify, not later than the third business day after the date of the malfunction, the Texas Alcoholic Beverage

Commission (commission) and the comptroller of public accounts about the date, time, and duration of the malfunction and cessation of operation.

(g) Authorizes the operator of a system that malfunctions to return the system to full service when the malfunction is corrected.

(h) Provides that a person commits a Class A misdemeanor if the person with criminal negligence enters an incorrect age for a purchaser into a system in the course of enrolling the purchaser in the system.

(i) Provides an exception to the application of Subsection (h) when the purchaser falsely claims to be the age indicated in the system by displaying an apparently valid government-issued identification document containing a physical description consistent with the purchaser's appearance for the purpose of inducing the person to enter an incorrect age into the system.

SECTION 2. Amends Section 106.13(a), Alcoholic Beverage Code, as follows:

(a) Authorizes the commission or administrator to cancel or suspend for not more than 90 days a retail license or permit or a private club registration permit if it is found, on notice and hearing, that the licensee or permittee, or an employee of the licensee or permittee, with criminal negligence failed to properly verify the age of a purchaser in the course of enrolling the purchaser in a system under Section 35.501, Business & Commerce Code, and entered into the system an incorrect age of at least 21 years of age for a purchaser who was under 21 years of age.

SECTION 3. Amends Subchapter D, Chapter 109, Alcoholic Beverage Code, by adding Section 109.62, as follows:

Sec. 109.62. USE OF ELECTRONIC FINGERPRINT ANALYSIS FOR AGE VERIFICATION. (a) Authorizes a person to use a system as provided by Section 35.501, Business & Commerce Code, for the purposes of complying with the Alcoholic Beverage Code or a rule of the commission, including for the purpose of preventing the person from committing an offense under this code.

(b) Provides that it is an affirmative defense to prosecution, that a system identified a person as of age and the defendant accessed the information and relied on the results in good faith, or if the defendant is the owner of a store in which alcoholic beverages are sold at retail and the offense occurs in connection with a sale by an employee of the owner who was provided with a working system and adequate training in use of the system.

SECTION 4. Amends Subchapter H, Chapter 161, Health and Safety Code, by adding Section 161.0826, as follows:

Sec. 161.0826. USE OF ELECTRONIC FINGERPRINT ANALYSIS FOR AGE VERIFICATION. (a) Authorizes a person to use a system as provided by Section 35.501, Business & Commerce Code, for the purposes of complying with Section 161.082 (Sale of Cigarettes or Tobacco Products to Persons Younger Than 18 Years of Age Prohibited; Proof of Age Required), Health and Safety Code.

(b) Provides that it is an affirmative defense to prosecution, that a system identified a person as of age and the defendant accessed the information and relied on the results in good faith, or if the defendant is the owner of a store in which alcoholic beverages are sold at retail and the offense occurs in connection with a sale by an employee of the owner who was provided with a working system and adequate training in use of the system.

SECTION 5. Amends Section 521.126, Transportation Code, by amending Subsection (b) and adding Subsection (e-1), as follows:

(b) Provides that a person commits an offense by accessing or using electronically readable information (information) from certain forms of ID, or compiling or maintaining a database of information from said forms of ID, except as provided by Subsection (e-1).

(e-1) Provides that the prohibition under Subsection (b) does not apply to a person who accesses or uses information or compiles or maintains a database of said information to enroll purchasers in a system or to verify the age of a purchaser before making a sale, as authorized by Section 35.501, Business & Commerce Code, if the purchaser consents to the use of the purchaser's information in that manner.

SECTION 6. Effective date: September 1, 2007.