

By: Chisum

H.B. No. 1439

Substitute the following for H.B. No. 1439:

By: Deshotel

C.S.H.B. No. 1439

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing the Texas Department of Public Safety to
3 establish a driver record monitoring pilot program and enter into
4 contracts for the periodic reporting of certain information in the
5 department's driver's license files; providing penalties.

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

7 SECTION 1. Subchapter C, Chapter 521, Transportation Code,
8 is amended by adding Section 521.060 to read as follows:

9 Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM. (a)
10 The department by rule may establish a driver record monitoring
11 pilot program. The term of the pilot program may not exceed one
12 year.

13 (b) Under the pilot program, the department may enter into a
14 contract with a person to provide driver record monitoring
15 services, as described by Subsection (c), and certain information
16 from the department's driver's license records to the person, if the
17 person:

18 (1) is an employer, an insurer, an insurance support
19 organization, an employer support organization, or an entity that
20 self-insures its motor vehicles; and

21 (2) is eligible to receive the information under
22 Chapter 730.

23 (c) A contract entered into by the department must require:

24 (1) the department, during the term of the contract,

1 to:

2 (A) monitor the driver record of each holder of a
3 driver's license issued by the department that is requested by the
4 person with whom the department has contracted;

5 (B) identify any change in the status of a
6 driver's license or any conviction for a traffic offense reported
7 to the department during the monitoring period; and

8 (C) periodically, as specified in the contract,
9 provide reports of those individuals identified as having a change
10 in status or convictions to the person with whom the department has
11 contracted; and

12 (2) the person with whom the department has
13 contracted:

14 (A) to purchase under Section 521.046 a copy of
15 the driver record of each individual identified in a report
16 provided under Subdivision (1)(C);

17 (B) to warrant that:

18 (i) the person will not directly or
19 indirectly disclose information received from the department under
20 the contract to a third party without the express written consent of
21 the department, except as required by law or legal process; and

22 (ii) if a disclosure is required by law or
23 legal process, the person will immediately notify the department so
24 that the department may seek to oppose, limit, or restrict the
25 required disclosure; and

26 (C) if the person is an insurance support
27 organization, to warrant that the person will not seek to obtain

1 information about a holder of a driver's license under the contract
2 unless the license holder is insured by a client of the
3 organization, and that the person will provide the department with
4 the name of each client to whom the insurance support organization
5 provides information received from the department under the
6 contract.

7 (d) The attorney general may file a suit against a person
8 with whom the department has contracted under this section for:

9 (1) injunctive relief to prevent or restrain the
10 person from violating a term of the contract or from directly or
11 indirectly disclosing information received from the department
12 under the contract in a manner that violates the terms of the
13 contract; or

14 (2) a civil penalty in an amount not to exceed \$2,000
15 for each disclosure in violation of those terms.

16 (e) If the attorney general brings an action against a
17 person under Subsection (d) and an injunction is granted against
18 the person or the person is found liable for a civil penalty, the
19 attorney general may recover reasonable expenses, court costs,
20 investigative costs, and attorney's fees. Each day a violation
21 continues or occurs is a separate violation for purposes of
22 imposing a penalty under Subsection (d).

23 (f) A violation of the terms of a contract entered into with
24 the department by the person with whom the department has
25 contracted is a false, misleading, or deceptive act or practice
26 under Subchapter E, Chapter 17, Business & Commerce Code.

27 (g) A civil action brought under this section shall be filed

1 in a district court:

2 (1) in Travis County; or

3 (2) in any county in which the violation occurred.

4 (h) A person with whom the department has contracted under
5 this section commits an offense if the person directly or
6 indirectly discloses information received from the department
7 under the contract in a manner that violates the terms of the
8 contract. An offense under this subsection is a Class B
9 misdemeanor. If conduct constituting an offense under this
10 subsection also constitutes an offense under another law, the actor
11 may be prosecuted under this subsection, the other law, or both.

12 (i) The department shall impose a fee on each person with
13 whom the department contracts under this section for the services
14 provided by the department under the contract. The fee must be
15 reasonable and be not less than the amount necessary to allow the
16 department to recover all reasonable costs to the department
17 associated with entering into the contract and providing services
18 to the person under the contract, including direct, indirect, and
19 administrative costs and costs related to the development and
20 deployment of the pilot program.

21 (j) The department may establish a reasonable deadline by
22 which a person must apply to enter into a contract with the
23 department under this section and may not enter into a contract with
24 a person who fails to apply before that deadline.

25 (k) To the fullest extent practicable, the services of the
26 department under a contract entered into under this section shall
27 be provided by, through, or in conjunction with the interactive

1 system established under Section 521.055.

2 (1) At the conclusion of the term of the pilot program, and
3 on the recommendation of the department, the commission may
4 authorize the department to implement the pilot program as a
5 permanent program.

6 (m) Before the department recommends the pilot program be
7 implemented as a permanent program, the department shall submit to
8 the lieutenant governor, the speaker of the house of
9 representatives, and each member of the legislature a report that
10 contains an analysis of the scope, effectiveness, and cost benefits
11 of the pilot program. The report must include:

12 (1) a list of each insurance support organization with
13 whom the department has contracted under this section; and

14 (2) a list of each client to whom the insurance support
15 organization has provided information received from the department
16 under this section.

17 SECTION 2. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2007.