

By: Chisum, West

H.B. No. 1615

Substitute the following for H.B. No. 1615:

By: Deshotel

C.S.H.B. No. 1615

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an electronic fingerprint verification system used by a
3 seller to confirm the age of a purchaser of certain products;
4 providing a criminal penalty.

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

6 SECTION 1. Subchapter D, Chapter 35, Business & Commerce
7 Code, is amended by adding Section 35.501 to read as follows:

8 Sec. 35.501. AGE VERIFICATION THROUGH ELECTRONIC
9 FINGERPRINT ANALYSIS. (a) In this section, "electronic
10 fingerprint verification system" means an electronic system
11 capable of verifying the age of a purchaser by scanning the
12 purchaser's fingerprint at the location of the sale.

13 (b) A seller who is required by law to verify the age of a
14 purchaser of a good or service before making a sale may satisfy the
15 age verification requirement by using an electronic fingerprint
16 verification system as provided by this section.

17 (c) A seller, a seller's agent, or a third party that a
18 seller or a seller's agent contracts with for this purpose may
19 enroll purchasers in an electronic fingerprint verification
20 system. To become enrolled in the system, the purchaser must
21 provide the person enrolling the purchaser with a government-issued
22 identification document that indicates the purchaser's age and
23 includes an electronic image of the person's fingerprint.

24 (d) After a purchaser is enrolled in the electronic

1 fingerprint verification system as provided by Subsection (c), a
2 seller may use the system to verify a purchaser's age before making
3 a sale. The seller is not required to ask for the purchaser's
4 government-issued identification document in the course of the
5 sale.

6 (e) Multiple sellers may share a single electronic
7 fingerprint verification system. A seller may rely on the
8 enrollment services of another seller, another seller's agent, or a
9 third party with whom another seller contracts, if both sellers use
10 the same electronic fingerprint verification system.

11 (f) If an electronic fingerprint verification system
12 malfunctions, the operator of the system shall:

13 (1) cause the part of the system that malfunctions to
14 cease operation; and

15 (2) notify, not later than the third business day
16 after the date of the malfunction, the Texas Alcoholic Beverage
17 Commission and the comptroller about the date, time, and duration
18 of the malfunction and cessation of operation.

19 (g) The operator of a fingerprint verification system that
20 malfunctions may return the system to full service when the
21 malfunction is corrected.

22 (h) A person commits an offense if the person with criminal
23 negligence enters an incorrect age for a purchaser into an
24 electronic fingerprint verification system in the course of
25 enrolling the purchaser in the system. An offense under this
26 subsection is a Class A misdemeanor.

27 (i) It is an exception to the application of Subsection (h)

1 that the purchaser falsely claimed to be the age indicated in the
2 electronic fingerprint verification system by displaying an
3 apparently valid government-issued identification document
4 containing a physical description consistent with the purchaser's
5 appearance for the purpose of inducing the person to enter an
6 incorrect age into the system.

7 SECTION 2. Section 106.13(a), Alcoholic Beverage Code, is
8 amended to read as follows:

9 (a) Except as provided in Subsections (b) and (c) of this
10 section, the commission or administrator may cancel or suspend for
11 not more than 90 days a retail license or permit or a private club
12 registration permit if it is found, on notice and hearing, that:

13 (1) the licensee or permittee with criminal negligence
14 sold, served, dispensed, or delivered an alcoholic beverage to a
15 minor or with criminal negligence permitted a minor to violate
16 Section 106.04 or 106.05 of this code on the licensed premises; or

17 (2) the licensee or permittee, or an employee of the
18 licensee or permittee, with criminal negligence failed to properly
19 verify the age of a purchaser in the course of enrolling the
20 purchaser in an electronic fingerprint verification system under
21 Section 35.501, Business & Commerce Code, and entered into the
22 system an incorrect age of at least 21 years of age for a purchaser
23 who was under 21 years of age.

24 SECTION 3. Subchapter D, Chapter 109, Alcoholic Beverage
25 Code, is amended by adding Section 109.62 to read as follows:

26 Sec. 109.62. USE OF ELECTRONIC FINGERPRINT ANALYSIS FOR AGE
27 VERIFICATION. (a) A person may use an electronic fingerprint

1 verification system as provided by Section 35.501, Business &
2 Commerce Code, for the purpose of complying with this code or a rule
3 of the commission, including for the purpose of preventing the
4 person from committing an offense under this code.

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

7 (1) an electronic fingerprint verification system
8 identified a person as of age and the defendant accessed the
9 information and relied on the results in good faith; or

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

14 (A) an electronic fingerprint verification
15 system in working condition; and

16 (B) adequate training in the use of the system.

17 SECTION 4. Subchapter H, Chapter 161, Health and Safety
18 Code, is amended by adding Section 161.0826 to read as follows:

19 Sec. 161.0826. USE OF ELECTRONIC FINGERPRINT ANALYSIS FOR
20 AGE VERIFICATION. (a) A person may use an electronic fingerprint
21 verification system as provided by Section 35.501, Business &
22 Commerce Code, for the purpose of complying with Section 161.082.

23 (b) It is an affirmative defense to prosecution under
24 Section 161.082 that:

25 (1) an electronic fingerprint verification system
26 identified a person as of age and the defendant accessed the
27 information and relied on the results in good faith; or

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

5 (A) an electronic fingerprint verification
6 system in working condition; and

7 (B) adequate training in the use of the system.

8 SECTION 5. Section 521.126, Transportation Code, is amended
9 by amending Subsection (b) and adding Subsection (e-1) to read as
10 follows:

11 (b) Except as provided by Subsections (d), (e), (e-1), and
12 (g), a person commits an offense if the person:

13 (1) accesses or uses electronically readable
14 information derived from a driver's license, commercial driver's
15 license, or personal identification certificate; or

16 (2) compiles or maintains a database of electronically
17 readable information derived from driver's licenses, commercial
18 driver's licenses, or personal identification certificates.

19 (e-1) The prohibition provided by Subsection (b) does not
20 apply to a person who accesses or uses electronically readable
21 information or compiles or maintains a database of electronically
22 readable information to enroll purchases in an electronic
23 fingerprint verification system or to verify the age of a purchaser
24 before making a sale, as authorized by Section 35.501, Business &
25 Commerce Code, if the purchaser consents to the use of the
26 purchaser's electronically readable information in that manner.

27 SECTION 6. This Act takes effect September 1, 2007.