

AN ACT

relating to the use of certain electronically readable information on a driver's license to comply with certain alcohol-related laws.

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

SECTION 1. Section 109.61, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.61. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION. (a) A person may access electronically readable information on a driver's license, commercial driver's license, or identification certificate for the purpose of complying with this code or a rule of the commission, including for the purpose of preventing the person from committing an offense under this code.

(b) A person may not retain information accessed under this section unless the commission by rule requires the information to be retained. The person may not retain the information longer than the commission requires.

(b-1) Information retained may be printed to hard copy with a time and date confirmation from the transaction scan device or transferred to an electronic encrypted data storage or electronic record. After printing or transferring data, the transaction scan device may clear the scanned information from the device or any memory in the device. The commission by rule may set further requirements for the retention of information under this subsection.

1 (c) Information accessed under this section may not be
2 marketed in any manner.

3 (d) A person who violates this section commits an offense.
4 An offense under this section is a Class A misdemeanor.

5 (e) 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) a transaction scan device identified the [a]
8 license or certificate of the purchaser as valid and that the person
9 is over 21, and the defendant accessed the information and relied on
10 the results in good faith; or

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

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

17 (B) adequate training in the use of the
18 transaction scan device; and

19 (C) the defendant did not directly or indirectly
20 encourage the employee to violate the law.

21 (f) The defense offered in Subsection (e) does not apply in
22 actions to cancel, deny, or suspend the license or permit, except as
23 provided by rules adopted by the commission under Section 5.31.

24 (g) In this section, "transaction scan device" includes an
25 electronic age verification system authorized by commission rule
26 operated in conjunction with a point of sale terminal that scans the
27 purchaser's driver's license or identification certificate upon

1 enrollment, associates the purchaser's personal identifying
2 information, as defined by Section 521.002(1)(C), Business &
3 Commerce Code, with the purchaser's license or identification
4 certificate information, and is capable of allowing a seller to
5 verify a purchaser's age solely by accessing the data and
6 information.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1828 passed the Senate on April 19, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 21, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1828 passed the House, with amendments, on May 16, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor