

BILL ANALYSIS

C.S.H.B. 3672
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current state and federal law prohibits disclosure and use of personal information contained in Texas' motor vehicle records except to authorized users. Authorized uses are enumerated in statute and include law enforcement, insurance companies, and private investigators, among others. One such authorized use provision allows "use in the normal course of business." Over the years, conflicting interpretations of this term have been used by the Texas Department of Transportation (TxDOT) in regard to who may obtain access to these private records.

The Federal Court, Eastern District of Texas heard a sweeping lawsuit and issued a final judgment in September 2008 that settled this issue. The ruling contradicts TxDOT's current interpretation regarding who may acquire personal information for "use in the normal course of business." The bill seeks to conform state law to the ruling of the federal court with regard to who is an authorized recipient of private information from a state agency in the normal course of business.

C.S.H.B. 3672 prescribes the manner in which an authorized recipient is required to safeguard such information from unlawful disclosure. The bill establishes a penalty associated with an unlawful request for personal information and specifies that the provisions of the Motor Vehicle Records Disclosure Act are exclusive and required to be applied uniformly by an agency.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3672 amends the Transportation Code to require personal information obtained by an agency in connection with a motor vehicle record to be disclosed for use in the normal course of the business of a recipient who obtains personal information for the purpose of processing, collating, organizing, and providing that personal information for a fee to others, but only if the recipient requires those others to clearly establish their authority to obtain the personal information under the Motor Vehicle Records Disclosure Act, informs in writing those others of the limitations in the act on the subsequent use of the personal information, requires those others to agree in writing that any subsequent use of the personal information obtained from the authorized recipient will be in compliance with the act, including provisions relating to the resale or redisclosure of the personal information, and retains and makes available for inspection by the applicable agency for at least five years the evidence or documents used to establish another's authority to obtain the personal information and each writing required by the provisions described above. The bill makes it a misdemeanor offense punishable by a fine not to exceed \$25,000 for a person to request personal information from an authorized recipient who obtained the information in compliance with these provisions and misrepresent the requestor's identity or make a false statement to the authorized recipient in connection with the request for the information.

C.S.H.B. 3672 specifies that provisions of the Motor Vehicle Records Disclosure Act are exclusive and must be applied uniformly by an agency, as that term is defined by the act, and prohibits an agency from adopting or enforcing a rule or policy that is inconsistent with the act. The bill limits the authority of an agency to prescribe a certification requirement, as part of a written application a requestor must make or file, to prescribing a necessary and reasonable certification requirement.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3672 differs from the original by providing that personal information obtained by an agency in connection with a motor vehicle record is required to be disclosed for use in the normal course of the business of a recipient who obtains personal information for the specified purpose and meets the specified conditions, whereas the original provides that such personal information is authorized to be disclosed to any requestor if the requestor provides the requestor's name and address and any proof of that information required by the agency and represents that the use of the personal information will be strictly limited to use in the normal course of business by a person who obtains personal information for the specified purpose and meets the specified conditions.

C.S.H.B. 3672 differs from the original by referring to the authority to obtain information under the Motor Vehicle Records Disclosure Act, whereas the original refers to such authority under the bill's provisions.