

BILL ANALYSIS

Senate Research Center
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S.B. 512
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under federal law, commercial drivers are required to notify their employer if they are cited for a traffic violation. Also, employers are required to obtain driver records on all of their employees once a year to ensure that the employees are complying with the reporting requirements. Currently, employers may purchase the driver records either annually or more frequently when necessary. For most major organizations it is cost prohibitive to purchase a driver record on every driver. Therefore, the majority of organizations purchase records on only a percentage of drivers at the end of the year.

The Department of Public Safety (DPS) currently has the authority to sell driver records under Section 521 (Driver's Licenses and Certificates), Subchapter C (Department License Records), Transportation Code. However, there are no provisions in statute that allow the state to establish a monitoring program and set fees for monitoring this data.

Driver record monitoring is a program that has been established in 38 states other than Texas. The program allows employers, who are already able to purchase driver records, to monitor a larger number of their drivers for any driver record activity. Participating employers receive an employee's driving record report following a traffic conviction as soon as the conviction is recorded. This report allows employers to receive quicker responses on any driver record activity, as opposed to waiting until the end of each year to request records. When a driver knows that his or her employer or insurance company can monitor his or her driving record for adverse activity, it is a deterrent against bad or erratic driving behavior.

As proposed, S.B. 512 creates a driver record monitoring pilot program at DPS, establishing a framework and fees for the management and sale of driver record data.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Public Safety in SECTION 1 (Section 521.060, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.060, as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM. (a) Authorizes the Texas Department of Public Safety (DPS) by rule to establish a driver record monitoring pilot program. Prohibits the term of the pilot program from exceeding one year.

(b) Authorizes DPS, under the pilot program, to enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from DPS's driver's license records to the person, if the person is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor vehicles, and is eligible to receive the information under Chapter 730 (Motor Vehicle Records Disclosure Act).

(c) Requires that a contract entered into by DPS require:

(1) DPS, during the term of the contract, to (A) monitor the driver record of each holder of a driver's license issued by DPS that is requested by the person with whom DPS has contracted; (B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to DPS during the monitoring period; and (C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom DPS has contracted; and

(2) the person with whom DPS has contracted to purchase under Section 521.046 (Disclosure of Accident and Conviction Information) a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C); to warrant that the person is prohibited from directly or indirectly disclosing certain information received from DPS, except as required by law, in which case the person will immediately notify DPS; and if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide DPS with the name of each client to whom the insurance support organization provides information received from DPS under the contract.

(d) Authorizes the attorney general to file a suit against a person with whom DPS has contracted under this section for injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from DPS under the contract in a manner that violates the terms of the contract, or a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) Authorizes the attorney general, if the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, to recover reasonable expenses, court costs, investigative costs, and attorney's fees. Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) Provides that a violation of the terms of a contract entered into with DPS by the person with whom DPS has contracted is a false, misleading, or deceptive act or practice under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

(g) Requires that a civil action brought under this section be filed in a district court in Travis County, or in any county in which the violation occurred.

(h) Provides that a person with whom DPS has contracted under this section commits an offense if the person directly or indirectly discloses information received from DPS under the contract in a manner that violates the terms of the contract. Provides that an offense under this subsection is a Class B misdemeanor. Provides that if conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) Requires DPS to impose a fee on each person with whom DPS contracts under this section for the services provided by DPS under the contract. Requires that the fee be reasonable and be not less than the amount necessary to allow DPS to recover all reasonable costs to DPS associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to DPS and deployment of the pilot program.

(j) Authorizes DPS to establish a reasonable deadline by which a person is required to apply to enter into a contract with DPS under this section and prohibits DPS from entering into a contract with a person who fails to apply before that deadline.

(k) Requires, to the fullest extent practicable, the services of DPS under a contract entered into under this section be provided by, through, or in conjunction with the interactive system established under Section 521.055 (Establishment of Interactive System).

(l) Authorizes the commission [Public Safety Commission] at the conclusion of the term of the pilot program, and on the recommendation of DPS, to authorize DPS to implement the pilot program as a permanent program.

(m) Requires DPS, before DPS recommends that the pilot program be implemented as a permanent program, to submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. Requires the report to include a list of each insurance support organization with which DPS has contracted under this section, and a list of each client to whom the insurance support organization has provided information received from DPS under this section.

SECTION 2. Effective date: upon passage or September 1, 2009.