

By: Watson

S.B. No. 778

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of identity recovery service providers and the inclusion of identity recovery service agreements in certain service contracts and vehicle protection products; providing penalties.

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

SECTION 1. Section 1304.003, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A service contract sold by a person licensed under Chapter 2301 to the purchaser of a motor vehicle at the time the purchaser enters into a retail installment transaction, as defined by Section 348.001, Finance Code, may also include an agreement to provide identity recovery services, as defined by Section 1705.001. An agreement under this subsection may not include an agreement solely to provide credit monitoring services. Section 1304.158(c) does not apply to an agreement under this subsection.

SECTION 2. Title 10, Occupations Code, is amended by adding Chapter 1705 to read as follows:

CHAPTER 1705. IDENTITY RECOVERY SERVICE PROVIDERS

Sec. 1705.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

1           (3) "Identifying information" has the meaning  
2 assigned by Section 32.51, Penal Code.

3           (4) "Identity recovery service provider" means a  
4 person who holds a license issued under this chapter to provide  
5 identity recovery services.

6           (5) "Identity recovery services" means services  
7 required to:

8                   (A) recover a person's identifying information  
9 after the identifying information has been obtained without the  
10 person's consent;

11                   (B) prevent the continued unauthorized use of a  
12 person's identifying information; and

13                   (C) reverse damage caused by the unauthorized use  
14 of a person's identifying information.

15       Sec. 1705.002. RULES. (a) The commission shall adopt rules:

16                   (1) providing license requirements for identity  
17 recovery service providers; and

18                   (2) regulating the practice by identity recovery  
19 service providers.

20       (b) Rules adopted under this chapter must:

21                   (1) protect the public health, safety, and welfare;  
22 and

23                   (2) ensure that identity recovery service providers  
24 are able to competently provide identity recovery services.

25       Sec. 1705.003. ADMINISTRATION BY DEPARTMENT. The  
26 department shall administer this chapter.

27       Sec. 1705.004. APPLICABILITY OF OTHER LAW. (a) Chapter 51

1 applies to the licensing and regulation of persons under this  
2 chapter.

3 (b) Chapter 1702 does not apply to an identity recovery  
4 service provider.

5 Sec. 1705.005. LICENSE REQUIRED. A person may not provide  
6 identity recovery services unless the person holds an identity  
7 recovery service provider license issued under this chapter.

8 Sec. 1705.006. COLLECTION OF FEES. A retail installment  
9 contract under Chapter 348, Finance Code, may include as a separate  
10 charge an amount for an agreement to provide identity recovery  
11 services.

12 SECTION 3. Subchapter A, Chapter 2306, Occupations Code, is  
13 amended by adding Section 2306.0035 to read as follows:

14 Sec. 2306.0035. ADDITIONAL SERVICES. A vehicle protection  
15 product may also include an agreement to provide identity recovery  
16 services, as defined by Section 1705.001.

17 SECTION 4. Not later than January 31, 2010, the Texas  
18 Commission of Licensing and Regulation shall:

19 (1) adopt rules under Section 1705.002, Occupations  
20 Code, as added by this Act; and

21 (2) begin issuing identity recovery service provider  
22 licenses under Chapter 1705, Occupations Code, as added by this  
23 Act.

24 SECTION 5. (a) Except as provided by Subsection (b) of this  
25 section, this Act takes effect September 1, 2009.

26 (b) The following provisions take effect June 1, 2010:

27 (1) Section 1304.003(b-1), Occupations Code, as added

1 by this Act;

2                   (2) Section 1705.005, Occupations Code, as added by  
3 this Act; and

4                   (3) Section 2306.0035, Occupations Code, as added by  
5 this Act.