

BILL ANALYSIS

C.S.H.B. 3011
By: Giddings
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A customer who gives out personal identifiable information, such as a zip code, could unknowingly allow businesses to use or sell the zip code without explicitly permitting the use or sale. A business using customized computer software can piece together a cardholder's name with the 5-digit zip code and determine the address of the customer. Such misuse of an individual's information can cause harm and facilitate identity theft. Currently, a business may require a customer using a credit card to provide a zip code to verify the customer's identity but may not retain a zip code obtained in this way. Some observers are concerned that current law does not adequately address the use of a zip code obtained for purposes of verifying a customer's identity.

C.S.H.B. 3011 seeks to address this issue by prohibiting the use or retention of a zip code obtained by a business in verifying the identity of a customer after the transaction is completed.

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. 3011 amends the Business & Commerce Code to prohibit a business that obtains a customer's zip code to verify the customer's identity in a credit card transaction from using or causing the zip code to be used for any purpose after the purchase of the good or service has been completed, without regard to whether the zip code is linked or not linked to the identity of the customer. The bill makes a business that violates the prohibition liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each act of violation. The bill authorizes the attorney general or a county or district attorney to bring an action in the name of the state to recover a civil penalty under the bill's provisions.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3011 omits a provision included in the original authorizing a person injured or threatened with injury by a violation of the prohibition to seek injunctive relief against the business committing or threatening to commit the violation. The substitute omits a provision included in the original specifying that a person injured or threatened with injury by such a violation includes a person whose zip code is retained or used for any purpose by a business in violation of the bill's provisions.

C.S.H.B. 3011 differs from the original by making conforming changes to reflect the omission of

the provision providing for injunctive relief.