

BILL ANALYSIS

Senate Research Center
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H.B. 346
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is one of only two states that prohibit businesses from saving electronically readable information obtained from scanned driver's licenses. Because driver's license numbers rarely change, businesses can use driver's license numbers to track fraudulent and potentially fraudulent activities such as returning shoplifted or used merchandise. Return fraud costs Texas businesses approximately \$1 billion a year.

Information electronically embedded in Texas driver's licenses is the same as the information displayed on the license, which includes a unique number, a color photograph of the entire face, a brief physical description, and the license holder's address.

Under Section 521.126 (Electronically Readable Information), Transportation Code, accessing or using electronically readable information from a driver's license or personal identification certificate, or compiling or maintaining this information in a database, is a misdemeanor offense. However, a business may access this information to verify a check or an individual's identity at the point of sale of a good or service by check.

H.B. 346 seeks to protect businesses from fraud by allowing them to scan and store electronically readable information embedded in a driver's license. It also allows businesses to provide this information to check services or fraud prevention services companies as part of a transaction initiated by the license holder. Check services and fraud prevention services companies are governed by the Fair Credit Reporting Act, and therefore any electronically readable information that they obtain would be subject to the Act's data privacy protections.

H.B. 346 amends current law relating to the electronic storage of personal identification information obtained from driver's licenses or personal identification certificates.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 521.126, Transportation Code, by amending Subsection (e) and adding Subsection (l), as follows:

(e) Provides that the prohibition provided by Subsection (b) (relating to providing that a person commits an offense if the person commits certain actions), rather than Subsection (b)(1) (relating to providing that a person commits an offense if the person accesses or uses electronically readable information derived from a driver's license, commercial, driver's license, or personal identification certificate), does not apply to a financial institution or a business that accesses or uses electronically readable information or compiles or maintains a database of that information if:

(1) Creates this subdivision from existing text. Makes a nonsubstantive change to this subdivision;

(2) the information is accessed and used as part of a transaction initiated by the license or certificate holder to provide information to a check services company or fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for the purpose of effecting, administering, or enforcing the transaction; or

(3) in the case of a financial institution, each license or certificate holder whose information is included in the compilation or database consents to the inclusion of the person's information in the compilation or database on a separate document, signed by the license or certificate holder, that explains in at least 14-point bold type the information that will be included in the compilation or database.

Deletes existing text providing that the prohibition provided by Subsection (b)(2) (relating to providing that a person commits an offense if the person compiles or maintains a database of electronically readable information derived from a driver's licenses, commercial driver's licenses, or personal identification certificates) does not apply to a financial institution if each license or certificate holder whose information is included in the compilation or database consents to the inclusion of the person's information in the compilation or database. Deletes existing text requiring that consent under this subsection be on a separate document, signed by the license or certificate holder, that explains in at least 14-point bold type the information that will be included in the compilation or database. Deletes existing text defining, for the purposes of this subsection, "financial institution."

(1) Defines, for the purposes of this section, "financial institution."

SECTION 2. Effective date: upon passage or September 1, 2013.