

AN ACT

relating to the accessing and use of electronically readable personal identification information obtained from driver's licenses or personal identification certificates.

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

SECTION 1. Section 521.126, Transportation Code, is amended by amending Subsections (b) and (e) and adding Subsections (e-1) and (1) to read as follows:

(b) Except as provided by Subsections (d), (e), (e-1), (g), (i), and (j), and Section 501.101, Business & Commerce Code, a person commits an offense if the person:

(1) accesses or uses electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate; or

(2) compiles or maintains a database of electronically readable information derived from driver's licenses, commercial driver's licenses, or personal identification certificates.

(e) The prohibition provided by Subsection (b)(1) does not apply to a financial institution or a business that:

(1) accesses or uses electronically readable information [~~if the information is accessed and used only~~] for purposes of identification verification of an individual or check verification at the point of sale for a purchase of a good or service by check; or

1 (2) accesses or uses as electronically readable
2 information a driver's license number or a name printed on a
3 driver's license as part of a transaction initiated by the license
4 or certificate holder to provide information encrypted in a manner:

5 (A) consistent with PCI DSS Standard 3.4 to a
6 check services company or fraud prevention services company
7 governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
8 seq.) for the purpose of effecting, administering, or enforcing the
9 transaction; and

10 (B) that does not involve the sale, transfer, or
11 other dissemination of a name or driver's license number to a third
12 party for any purpose, including any marketing, advertising, or
13 promotional activities.

14 (e-1) The prohibition provided by Subsection (b) does not
15 apply to:

16 (1) a check services company or a fraud prevention
17 services company governed by the Fair Credit Reporting Act (15
18 U.S.C. Section 1681 et seq.) that, for the purpose of preventing
19 fraud when effecting, administering, or enforcing the transaction:

20 (A) accesses or uses as electronically readable
21 information a driver's license number or a name printed on a
22 driver's license; or

23 (B) compiles or maintains a database of
24 electronically readable driver's license numbers or names printed
25 on driver's licenses and periodically removes the numbers or names
26 from the database that are at least four years old; or

27 (2) [~~The prohibition provided by Subsection (b)(2)~~]

1 ~~does not apply to~~ a financial institution that compiles or
2 maintains a database of electronically readable information, if
3 each license or certificate holder whose information is included in
4 the compilation or database consents to the inclusion of the
5 person's information in the compilation or database [~~.—Consent~~
6 ~~under this subsection must be~~] on a separate document, signed by the
7 license or certificate holder, that explains in at least 14-point
8 bold type the information that will be included in the compilation
9 or database.

10 (1) For the purposes of this section [~~subsection~~],
11 "financial institution" has the meaning assigned by 31 U.S.C.
12 Section 5312(a)(2) [~~, as amended~~].

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 346 was passed by the House on April 30, 2013, by the following vote: Yeas 141, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 346 on May 23, 2013, by the following vote: Yeas 143, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 346 was passed by the Senate, with amendments, on May 21, 2013, by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

APPROVED: _____

Date

Governor