

By: Goldman

H.B. No. 2399

Substitute the following for H.B. No. 2399:

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C.S.H.B. No. 2399

A BILL TO BE ENTITLED

AN ACT

relating to the use of a biometric identity verification device to verify the age of an individual purchasing an alcoholic beverage.

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

SECTION 1. Section 1.04, Alcoholic Beverage Code, is amended by adding Subdivision (29) to read as follows:

(29) "Biometric identity verification device" means a device that instantly verifies the identity and age of a person by:

(A) taking an electronic scan of a biometric identifier of the person, including a scan of a fingerprint, an iris, the face, or another biometric identifier; and

(B) referencing the scan of the identifier against a record of biometric identifiers associated with government-issued identification documents where:

(i) the authenticity of the record was previously verified by an electronic authentication process;

(ii) the identity of and information about the record holder was previously verified through a secondary electronic authentication process or process using commercially available data such as a public records query or a knowledge-based authentication quiz; and

(iii) the authenticated record is securely linked to biometric identifiers contemporaneously collected from the verified record holder and stored in a central, highly secured,

1 encrypted biometric identifier database.

2 SECTION 2. Section 106.03, Alcoholic Beverage Code, is
3 amended by amending Subsection (b) and adding Subsection (b-1) to
4 read as follows:

5 (b) A person who sells a minor an alcoholic beverage does
6 not commit an offense if:

7 (1) the minor falsely represents that the minor is
8 ~~[himself to be]~~ 21 years old or older by displaying an apparently
9 valid proof of identification that contains a physical description
10 and photograph consistent with the minor's appearance, purports to
11 establish that the minor is 21 years of age or older, and was issued
12 by a governmental agency; or

13 (2) the person relies on a verification by a biometric
14 identity verification device as proof of identification and that
15 the minor is 21 years of age or older.

16 (b-1) The proof of identification under Subsection (b)(1)
17 may include a driver's license or identification card issued by the
18 Department of Public Safety, a passport, or a military
19 identification card.

20 SECTION 3. Section 106.13(c), Alcoholic Beverage Code, is
21 amended to read as follows:

22 (c) The commission or administrator may relax the
23 provisions of this section concerning suspension and cancellation
24 and assess a sanction the commission or administrator finds just
25 under the circumstances if, at a hearing, the licensee or permittee
26 establishes to the satisfaction of the commission or administrator:

27 (1) that the violation could not reasonably have been

1 prevented by the permittee or licensee by the exercise of due
2 diligence;

3 (2) that the permittee or licensee was entrapped; ~~[or]~~

4 (3) that an agent, servant, or employee of the
5 permittee or licensee violated this code without the knowledge of
6 the permittee or licensee; or

7 (4) that the permittee or licensee or an agent,
8 servant, or employee of the permittee or licensee relied on a
9 biometric identity verification device to verify the individual's
10 age.

11 SECTION 4. Sections 109.61(a), (b-1), (e), and (f),
12 Alcoholic Beverage Code, are amended to read as follows:

13 (a) A person may access electronically readable information
14 on a driver's license, commercial driver's license, or
15 identification certificate or provided through a biometric
16 identity verification device for the purpose of complying with this
17 code or a rule of the commission, including for the purpose of
18 preventing the person from committing an offense under this code.

19 (b-1) Information retained may be printed to hard copy with
20 a time and date confirmation from the transaction scan device or
21 biometric identity verification device or transferred to an
22 electronic encrypted data storage or electronic record. After
23 printing or transferring data, the transaction scan device or
24 biometric identity verification device may clear the scanned
25 information from the device or any memory in the device. The
26 commission by rule may set further requirements for the retention
27 of information under this subsection.

1 (e) It is an affirmative defense to prosecution under this
2 code, for an offense having as an element the age of a person, that:

3 (1) a transaction scan device identified the license
4 or certificate of the purchaser as valid and that the person is over
5 21, or a biometric identity verification device verified that the
6 person is 21 years of age or older, and the defendant accessed the
7 information and relied on the results in good faith; or

8 (2) if the defendant is the owner of a store in which
9 alcoholic beverages are sold at retail, the offense occurs in
10 connection with a sale by an employee of the owner, and the owner
11 had provided the employee with:

12 (A) a transaction scan device or biometric
13 identity verification device in working condition;

14 (B) adequate training in the use of the
15 transaction scan device or biometric identity verification device;
16 and

17 (C) the defendant did not directly or indirectly
18 encourage the employee to violate the law.

19 (f) The defense offered in Subsection (e) applies [~~does not~~
20 ~~apply~~] in actions to cancel, deny, or suspend the license or permit,
21 except as provided by rules adopted by the commission under Section
22 5.31.

23 SECTION 5. The changes in law made by this Act apply only to
24 an offense committed on or after the effective date of this Act. An
25 offense committed before the effective date of this Act is governed
26 by the law in effect on the date the offense was committed, and the
27 former law is continued in effect for that purpose. For purposes of

1 this section, an offense was committed before the effective date of
2 this Act if any element of the offense was committed before that
3 date.

4 SECTION 6. This Act takes effect September 1, 2019.