

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 15
By: Nichols
Transportation
4/7/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the Driver's Privacy Protection Act, all states are required to set privacy protections for motor vehicle records. Governmental entities are selling, disclosing, and allowing resale of personal information attached to motor vehicle records to private entities. Personal information includes name, address, and driver's license number of the vehicle owner or lienholder, along with vehicle registration and title. S.B. 15 restricts disclosure of personal information to essential government agencies, and forbids personal information from redisclosure or resale to private entities such as marketing and technology companies.

(Original Author's/ Sponsor's Statement of Intent)

C.S.S.B. 15 amends current law relating to the Texas Consumer Privacy Act Phase I, creates criminal offenses, and increases the punishment for an existing criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Parks and Wildlife Commission is modified in SECTION 2 (Section 11.030, Parks and Wildlife Code) of this bill.

Rulemaking authority is expressly granted to an applicable agency in SECTION 10 (Section 730.0121, Transportation Code) of this bill.

Rulemaking authority previously granted to the Texas Transportation Commission is rescinded in SECTION 14 (Section 204.011) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that this Act may be cited as the Texas Consumer Privacy Act Phase I.

SECTION 2. Amends Section 11.030, Parks and Wildlife Code, by amending Subsections (a) and (c) and adding Subsections (e-1), (e-2), and (e-3), as follows:

(a) Prohibits certain personal identification information of a person who purchases customer products, licenses, or services from the Texas Parks and Wildlife Department (TPWD) from being disclosed, sold, rented, or traded, rather than from being disclosed, except as authorized under Section 11.030 (Disclosure of Personal Customer Information) or Section 12.0251 (Disclosure of Information Collected During Technical Guidance to Private Landowner).

(c) Deletes existing text requiring the Texas Parks and Wildlife Commission (TPWC) by rule to adopt policies relating to the sale of a mailing list consisting of the names and addresses of persons who purchase customer products, licenses, or services. Makes nonsubstantive changes.

(e-1) Authorizes TPWD to disclose statistical data and compilations of customer information described by Subsection (a) if the information does not reveal information identifying a specific TPWD customer or a TPWD customer's address, telephone number, social security number, or driver's license number.

(e-2) Authorizes TPWD to disclose customer information described by Subsection (a):

(1) to another governmental body, including a law enforcement entity, as needed to carry out a governmental purpose;

(2) if the customer that is the subject of the information consents in writing to the specific disclosure; or

(3) if the information is part of a record that is considered to be a public record under Section 31.039 (Public Records; Fees) or authorized to be disclosed under Section 31.0391 (Release of Information).

(e-3) Provides that Section 11.030 does not authorized TPWD to disclose information TPWD is prohibited from disclosing by other law.

SECTION 3. Amends Section 204.011(a), Transportation Code, to delete existing text providing an exception as provided by Section 204.011 (Subscriber or Purchaser Information) or a rule adopted by the Texas Transportation Commission (TTC) to the prohibition of the Texas Department of Transportation (TxDOT) from disclosing to any person certain personal identification information of certain persons.

SECTION 4. Amends Section 521.0475(a), Transportation Code, as follows:

(a) Requires the Department of Public Safety of the State of Texas (DPS), except as provided by Subsection (b) (relating to a statement regarding the nonexistence of an abstract of a complete driving record), to provide a certified abstract of a complete driving record of a license holder, for a fee of \$20, to the license holder or a person eligible to receive the information under Sections 730.007(a)(2)(A), (B), and (G) (relating to disclosure of personal information obtained by an agency in connection with a motor vehicle record in certain circumstances), rather than Sections 730.007(a)(2)(A), (D), and (I) (relating to disclosure of personal information obtained by an agency in connection with a motor vehicle record in certain circumstances).

SECTION 5. Amends Section 548.601(a), Transportation Code, as follows:

(a) Provides that a person, including an inspector or an inspection station, commits an offense under certain circumstances, including if the person discloses or sells information about a customer, vehicle owner, or vehicle to a person other than TxDOT or the person who is the subject of the information, including a vehicle identification number, vehicle mileage, or vehicle inspection report, or a customer or vehicle owner's name, address, or phone number. Makes a nonsubstantive change.

SECTION 6. Amends Section 730.003, Transportation Code, by adding Subdivision (1-a) and (1-b) and amending Subdivision (6), as follows:

(1-a) Defines "aggregate report" for purposes of Chapter 730 (Motor Vehicle Records Disclosure Act).

(1-b) Defines "authorized recipient" for purposes of Chapter 730.

(6) Redefines "personal information," for purposes of Chapter 730, to include an individual's date of birth and to provide that a person's email address is not included. Deletes existing text relating to including a driver identification number.

SECTION 7. Amends Section 730.006, Transportation Code, as follows:

Sec. 730.006. **REQUIRED DISCLOSURE WITH CONSENT.** Requires that personal information obtained by an agency in connection with a motor vehicle record be

disclosed to certain individuals, including a requestor who is the subject of the information. Makes nonsubstantive changes.

SECTION 8. Amends the heading to Section 730.007, Transportation Code, to read as follows:

Sec. 730.007. PERMITTED DISCLOSURES OF CERTAIN PERSONAL INFORMATION.

SECTION 9. Amends Section 730.007, Transportation Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Authorizes disclosure of personal information obtained by an agency in connection with a motor vehicle record to any requestor by an agency if the requestor:

(1) makes no changes to this subdivision; and

(2) represents that the use of the personal information will be strictly limited to:

(A) use by the Texas Department of Motor Vehicles (TxDMV), DPS, TxDOT, a court, or a law enforcement agency, in carrying out its functions;

(B) incorporates text of existing Paragraph D to become Paragraph B and makes no further changes;

(C) creates this paragraph from existing text and makes a nonsubstantive change;

(D) creates this paragraph from existing text; use by an insurer, insurance support organization, or self-insured entity, or an authorized agent of an insurer, insurance support organization, or self-insured entity, in connection with claims processing or investigation activities, antifraud activities, rating, or underwriting, rather than use by an insurer or insurance support organization, or by a self insured entity, or an authorized agent of the entity, in connection with claims investigation activities, antifraud activities, rating, or underwriting;

(E) creates this paragraph from existing text; use in providing notice to an owner of a vehicle that was towed or impounded and is in the possession of a vehicle storage facility, rather than use in providing notice to an owner of a towed or impounded vehicle;

(F) - (I) creates these paragraphs from existing text and makes nonsubstantive changes;

(J) use by an agent of a motor vehicle manufacturer, dealership, or distributor for issuing notifications concerning motor vehicle alterations, recalls, or advisories; or

(K) if the information is obtained from TxDMV in connection with individual transactions, use in the ordinary course of business by a person or authorized agent of a person who:

(i) holds a salvage vehicle dealer license issued under Chapter 2302 (Salvage Vehicle Dealers), Occupations Code;

(ii) holds an independent motor vehicle dealer or wholesale motor vehicle auction general distinguishing number issued under Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates) of this code;

(iii) holds a used automotive parts recycler license issued under Chapter 2309 (Used Automotive Parts Recyclers), Occupations Code; or

(iv) is licensed by, registered with, or subject to regulatory oversight by TxDMV, the Texas Department of Banking, the Department of Savings and Mortgage Lending, the Credit Union Department, the Office of Consumer Credit Commissioner, the Texas Department of Insurance, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the National Credit Union Administration.

Deletes existing text authorizing disclosure of personal information obtained by an agency in connection with a motor vehicle record to any requestor if the information will be used for certain purposes by a legitimate business or an authorized agent of the business. Makes conforming and nonsubstantive changes.

(b-1) Authorizes any agency to disclose personal information requested under Subsection (a)(2)(C) only in the form of an aggregate report.

SECTION 10. Amends Chapter 730, Transportation Code, by adding Sections 730.0121, 730.0122, and 730.0123, as follows:

Sec. 730.0121. DELETION OF INFORMATION REQUIRED IF NOT AUTHORIZED RECIPIENT. Requires an agency by rule to require a requestor to delete from the requestor's records personal information received from the agency under Chapter 730 if the requestor becomes aware that the requestor is not an authorized recipient of that information.

Sec. 730.0122. SALE PROHIBITED. (a) Prohibits a person from selling to a person who is not an authorized recipient personal information obtained by an agency in connection with a motor vehicle record.

(b) Provides that a person commits a misdemeanor offense punishable by a fine not to exceed \$100,000 if the person violates Subsection (a).

Sec. 730.0123. CIVIL SUIT. (a) Provides that a person who sells to a person who is not an authorized recipient personal information obtained by an agency in connection with a motor vehicle record is liable to the person who is the subject of the information for:

(1) actual damages;

(2) if the actual damages to the person are less than \$2,500, an additional amount so that the total amount of damages equals \$2,500; and

(3) court costs incurred by the person who is the subject of the information in bringing the action.

(b) Authorizes a person whose personal information has been sold to a person who is not an authorized recipient to sue for the damages, costs, and fees authorized under Subsection (a), injunctive relief, and any other equitable remedy determined to be appropriate by the court.

(c) Provides that a district court has exclusive original jurisdiction over a cause of action brought under this section.

SECTION 11. Amends Section 730.013, Transportation Code, as follows:

Sec. 730.013. New heading: REDISCLOSURE; OFFENSE. (a) Deletes existing text prohibiting an authorized recipient of personal information from reselling the personal information in the identical or a substantially identical format the personal information was disclosed to the recipient by the applicable agency.

(b) Deletes existing text authorizing an authorized recipient of personal information to resell the information only for a use permitted under Section 730.007.

(c) Deletes existing text requiring any authorized recipient who resells personal information obtained from an agency to take certain actions.

(c-1) Prohibits a person who receives personal information from an authorized recipient from redisclosing the personal information to a person who is not an authorized recipient.

(c-2) Requires an authorized recipient to notify each person who receives personal information from the authorized recipient that the person is prohibited from redisclosing the personal information to a person who is not an authorized recipient.

(d) Provides that a person who violates this section commits a misdemeanor offense punishable by a fine not to exceed \$100,000 per record of personal information that is a subject of the violation, rather than punishable by a fine not to exceed \$25,000.

SECTION 12. Amends the heading to Section 730.016, Transportation Code, to read as follows:

Sec. 730.016. INELIGIBILITY OF CERTAIN PERSONS TO RECEIVE, RETAIN, OR REDISCLOSE PERSONAL INFORMATION; OFFENSE.

SECTION 13. Amends Section 730.016, Transportation Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that a person who is convicted of an offense under Chapter 730, or who violates a rule adopted by an agency relating to the terms or conditions for a release of personal information to the person:

(1) creates this subdivision from existing text and makes nonsubstantive changes;

(2) not later than one year after the date of conviction or of the agency's final determination of a rule violation, is required to delete from the person's records all personal information received under Chapter 730; and

(3) is prohibited from redisclosing personal information received under Chapter 730.

(c) Provides that a person who violates this section commits a misdemeanor offense punishable by a fine not to exceed \$100,000 per record of personal information that is subject of the violation.

SECTION 14. (1) Repealer: Section 11.030(d) (relating to requiring TPWC to include in its policies a method for a person by request to exclude information about the person from a certain mailing list), Parks and Wildlife Code.

(2) Repealer: Section 204.011(c) (relating to certain policies regarding subscribers and purchasers established by rule of the Texas Transportation Commission) and (d) (relating to the requirement that the policies include certain protections of personal information), Transportation Code.

SECTION 15. Makes application of this Act prospective.

SECTION 16. (a) Provides that Section 730.0121, Transportation Code, as added by this Act, applies to a person who received personal information under Chapter 730, Transportation Code, before the effective date of this Act, and is not an authorized recipient of that personal information under Chapter 730, Transportation Code, as amended by this Act.

(b) Prohibits an agency to which Section 730.0121, Transportation Code, as added by this Act, applies, notwithstanding Subsection (a) of this section, from requiring a person who received personal information from the agency before the effective date of this Act and is not an authorized recipient, as defined by Section 730.003(1-b), Transportation Code, as added by this Act, of that information to delete the information before the first anniversary of the effective date of this Act.

SECTION 17. Effective date: upon passage or September 1, 2021.