87R8320 JXC-F

By:  King of Parker H.B. No. 3471

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Consumer Privacy Act Phase I; creating criminal offenses; increasing the punishment for an existing criminal offense.

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

SECTION 1.  This Act may be cited as the Texas Consumer Privacy Act Phase I.

SECTION 2.  Section 521.0475(a), Transportation Code, is amended to read as follows:

(a)  Except as provided by Subsection (b), the department shall 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 (E) [~~Sections 730.007(a)(2)(A), (D), and (I)~~].

SECTION 3.  Section 730.003, Transportation Code, is amended by adding Subdivision (1-a) and amending Subdivision (6) to read as follows:

(1-a) "Authorized recipient" means a person who receives personal information directly from an agency in a manner authorized by this chapter.

(6)  "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, date of birth, [~~driver~~] identification number, name, address, e-mail address [~~but not the zip code~~], telephone number, and medical or disability information. The term does not include:

(A)  information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status; or

(B)  information contained in an accident report prepared under:

(i)  Chapter 550; or

(ii)  former Section 601.004 before September 1, 2017.

SECTION 4.  Section 730.006, Transportation Code, is amended to read as follows:

Sec. 730.006.  REQUIRED DISCLOSURE WITH CONSENT. Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed to a requestor who:

(1)  is the subject of the information; or

(2)  demonstrates, in such form and manner as the agency requires, that the requestor has obtained the written consent of the person who is the subject of the information.

SECTION 5.  The heading to Section 730.007, Transportation Code, is amended to read as follows:

Sec. 730.007.  PERMITTED DISCLOSURES OF CERTAIN PERSONAL INFORMATION.

SECTION 6.  Sections 730.007(a) and (c), Transportation Code, are amended to read as follows:

(a)  Personal information obtained by an agency in connection with a motor vehicle record may be disclosed to any requestor by an agency if the requestor:

(1)  provides the requestor's name and address and any proof of that information required by the agency; and

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

(A)  use by the Texas Department of Motor Vehicles, the Department of Public Safety, the Texas Department of Transportation, a [~~:~~

[~~(i)  a government agency, including any~~] court, or a law enforcement agency, in carrying out its functions; [~~or~~

[~~(ii) a private person or entity acting on behalf of a government agency in carrying out the functions of the agency;~~]

(B)  [~~use in connection with a matter of:~~

[~~(i)  motor vehicle or motor vehicle operator safety;~~

[~~(ii) motor vehicle theft;~~

[~~(iii) motor vehicle product alterations, recalls, or advisories;~~

[~~(iv) performance monitoring of motor vehicles, motor vehicle parts, or motor vehicle dealers;~~

[~~(v)  motor vehicle market research activities, including survey research; or~~

[~~(vi) removal of nonowner records from the original owner records of motor vehicle manufacturers;~~

[~~(C) use in the normal course of business by a legitimate business or an authorized agent of the business, but only:~~

[~~(i)  to verify the accuracy of personal information submitted by the individual to the business or the agent of the business; and~~

[~~(ii) if the information is not correct, to obtain the correct information, for the sole purpose of preventing fraud by, pursuing a legal remedy against, or recovering on a debt or security interest against the individual;~~

[~~(D)~~] use in conjunction with a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, execution or enforcement of a judgment or order, or under an order of any court;

(C) [~~(E)~~]  use in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual;

(D)  [~~(F) 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;~~

[~~(G)~~] use in providing notice to an owner of a vehicle that was towed or impounded and is in the possession of the requestor [~~vehicle~~];

(E)  [~~(H) use by a licensed private investigator agency or licensed security service for a purpose permitted under this section;~~

[~~(I)~~] use by an employer or an agent or insurer of the employer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S.C. Chapter 313;

(F) [~~(J)~~]  use in connection with the operation of a private toll transportation facility; or

(G) [~~(K)~~]  use by a consumer reporting agency, as defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), for a purpose permitted under that Act[~~; or~~

[~~(L) use for any other purpose specifically authorized by law that relates to the operation of a motor vehicle or to public safety~~].

(c)  This section does not:

(1)  prohibit the disclosure of a person's photographic image to:

(A)  a law enforcement agency, the Texas Department of Motor Vehicles, [~~a county tax assessor-collector,~~] or a criminal justice agency for an official purpose;

(B)  an agency of this state investigating an alleged violation of a state or federal law relating to the obtaining, selling, or purchasing of a benefit authorized by Chapter 31 or 33, Human Resources Code; or

(C)  an agency of this state investigating an alleged violation of a state or federal law under authority provided by Title 4, Labor Code; or

(2)  prevent a court from compelling by subpoena the production of a person's photographic image.

SECTION 7.  Chapter 730, Transportation Code, is amended by adding Sections 730.0121, 730.0122, and 730.0123 to read as follows:

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

Sec. 730.0122.  SALE PROHIBITED. (a) A person may not sell personal information obtained by an agency in connection with a motor vehicle record.

(b)  A person commits an offense if the person violates Subsection (a). An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100,000.

Sec. 730.0123.  CIVIL SUIT. (a) A person who sells 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 and reasonable attorney's fees incurred by the person who is the subject of the information in bringing the action.

(b)  A person whose personal information has been sold in violation of this section may sue for:

(1)  the damages, costs, and fees authorized under Subsection (a);

(2)  injunctive relief; and

(3)  any other equitable remedy determined to be appropriate by the court.

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

SECTION 8.  Section 730.013, Transportation Code, is amended to read as follows:

Sec. 730.013.  [~~RESALE OR~~] REDISCLOSURE; OFFENSE. (a) An authorized recipient of personal information may not [~~resell or~~] redisclose the personal information in the identical or a substantially identical format the personal information was disclosed to the recipient by the applicable agency.

(b)  An authorized recipient of personal information may [~~resell or~~] redisclose the information only for a use permitted under Section 730.007.

(c)  An [~~Any~~] authorized recipient who [~~resells or~~] rediscloses personal information obtained from an agency shall be required by that agency to:

(1)  maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained; and

(2)  provide copies of those records to the agency on request.

(c-1)  A person who receives personal information from an authorized recipient may not redisclose the personal information.

(c-2)  An authorized recipient shall notify each person who receives personal information from the authorized recipient that the person may not redisclose the personal information.

(d)  A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100,000 per record of personal information that is a subject of the violation [~~$25,000~~].

SECTION 9.  The heading to Section 730.016, Transportation Code, is amended to read as follows:

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

SECTION 10.  Section 730.016, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  A person who is convicted of an offense under this chapter, 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)[~~,~~] is ineligible to receive personal information under Section 730.007;

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

(3)  may not redisclose personal information received under this chapter.

(c)  A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $100,000 per record of personal information that is a subject of the violation.

SECTION 11.  The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 12.  (a) 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)  Notwithstanding Subsection (a) of this section, an agency to which Section 730.0121, Transportation Code, as added by this Act, applies may not require 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-a), 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 13.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.