

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 11.030, Parks and Wildlife Code, is amended by amending Subsections (a) and (c) and adding Subsections (e-1), (e-2), and (e-3) to read as follows:

(a) The name and address and a telephone, social security, driver's license, bank account, credit card, or charge card number of a person who purchases customer products, licenses, or services from the department may not be disclosed, sold, rented, or traded except as authorized under this section or Section 12.0251.

(c) The commission by rule shall adopt policies relating to:

(1) the release of the customer information; and

(2) the use of the customer information by the department ~~[, and~~

~~[(3) the sale of a mailing list consisting of the names and addresses of persons who purchase customer products, licenses, or services].~~

(e-1) The department may disclose statistical data and compilations of customer information described by Subsection (a) if

1 the information does not reveal information identifying a specific
2 department customer or a department customer's address, telephone
3 number, social security number, or driver's license number.

4 (e-2) The department may disclose customer information
5 described by Subsection (a) only:

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

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

10 (3) if the information is:

11 (A) part of a record that is considered to be a
12 public record under Section 31.039; or

13 (B) authorized to be disclosed under Section
14 31.0391.

15 (e-3) This section does not authorize the department to
16 disclose information the department is prohibited from disclosing
17 by other law.

18 SECTION 3. Section 204.011(a), Transportation Code, is
19 amended to read as follows:

20 (a) The [~~Except as provided by this section or a rule~~
21 ~~adopted by the commission under this section, the~~] department may
22 not disclose to any person the name, address, telephone number,
23 social security account number, driver's license number, bank
24 account number, credit or debit card number, or charge account
25 number of a person who:

26 (1) is or has been a subscriber to "Texas Highways"; or

27 (2) has purchased from the department a promotional

1 item described by Section 204.009.

2 SECTION 4. Section 548.601(a), Transportation Code, is
3 amended to read as follows:

4 (a) A person, including an inspector or an inspection
5 station, commits an offense if the person:

6 (1) submits information to the department's inspection
7 database or issues a vehicle inspection report with knowledge that
8 the submission or issuance is in violation of this chapter or rules
9 adopted under this chapter;

10 (2) falsely or fraudulently represents to the owner or
11 operator of a vehicle that equipment inspected or required to be
12 inspected must be repaired, adjusted, or replaced for the vehicle
13 to pass an inspection;

14 (3) misrepresents:

15 (A) material information in an application in
16 violation of Section 548.402 or 548.403; or

17 (B) information filed with the department under
18 this chapter or as required by department rule;

19 (4) submits information to the department's inspection
20 database or issues a vehicle inspection report:

21 (A) without authorization to issue the report or
22 submit the information; or

23 (B) without inspecting the vehicle;

24 (5) submits information to the department's inspection
25 database indicating that a vehicle has passed the applicable
26 inspections or issues a passing vehicle inspection report for a
27 vehicle with knowledge that the vehicle has not been repaired,

1 adjusted, or corrected after an inspection has shown a repair,
2 adjustment, or correction to be necessary;

3 (6) knowingly submits information to the department's
4 inspection database or issues a vehicle inspection report:

5 (A) for a vehicle without conducting an
6 inspection of each item required to be inspected; or

7 (B) for a vehicle that is missing an item
8 required to be inspected or that has an item required to be
9 inspected that is not in compliance with state law or department
10 rules;

11 (7) refuses to allow a vehicle's owner to have a
12 qualified person of the owner's choice make a required repair,
13 adjustment, or correction;

14 (8) charges for an inspection an amount greater than
15 the authorized fee;

16 (9) discloses or sells information collected in
17 relation to the vehicle inspection program under this chapter about
18 a unique customer or a unique vehicle owner to a person other than
19 the department or the person who is the subject of the information,
20 including a customer or vehicle owner's name, address, or phone
21 number; or

22 (10) [~~(9)~~] performs an act prohibited by or fails to
23 perform an act required by this chapter or a rule adopted under this
24 chapter.

25 SECTION 5. Section 730.003, Transportation Code, is amended
26 by adding Subdivision (1-a) and amending Subdivision (6) to read as
27 follows:

1 (1-a) "Authorized recipient" means a person who is
2 permitted to receive and use personal information from an agency in
3 a manner authorized by this chapter.

4 (6) "Personal information" means information that
5 identifies a person, including an individual's photograph or
6 computerized image, social security number, date of birth, driver
7 identification number, name, address, but not the zip code, e-mail
8 address, telephone number, and medical or disability information.

9 The term does not include:

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

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

15 (i) Chapter 550; or

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

18 SECTION 6. Section 730.006, Transportation Code, is amended
19 to read as follows:

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

23 (1) is the subject of the information; or

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

27 SECTION 7. The heading to Section 730.007, Transportation

1 Code, is amended to read as follows:

2 Sec. 730.007. PERMITTED DISCLOSURES OF CERTAIN PERSONAL
3 INFORMATION.

4 SECTION 8. Section 730.007, Transportation Code, is amended
5 by amending Subsection (a) and adding Subsections (a-1), (a-2), and
6 (g) to read as follows:

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

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

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

14 (A) use by:

15 (i) a government agency, including any
16 court or law enforcement agency, in carrying out its functions; or

17 (ii) a private person or entity acting on
18 behalf of a government agency in carrying out the functions of the
19 agency;

20 (B) use in connection with a matter of:

21 (i) motor vehicle or motor vehicle operator
22 safety;

23 (ii) motor vehicle theft;

24 (iii) motor vehicle product alterations,
25 recalls, or advisories;

26 (iv) performance monitoring of motor
27 vehicles, motor vehicle parts, or motor vehicle dealers; or

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

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

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

8 (i) to verify the accuracy of personal
9 information submitted by the individual to the business or the
10 agent of the business; and

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

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

20 (E) use in research or in producing statistical
21 reports, but only if the personal information is not published,
22 redisclosed, or used to contact any individual;

23 (F) use by an insurer, ~~or~~ insurance support
24 organization, or ~~by a~~ self-insured entity, or an authorized agent
25 of an insurer, insurance support organization, or self-insured
26 entity [~~the entity~~], in connection with claims processing or
27 investigation activities, antifraud activities, rating, or

1 underwriting;

2 (G) use in providing notice to an owner of a
3 vehicle that was towed or impounded and is in the possession of a
4 vehicle storage facility;

5 (H) use by a licensed private investigator agency
6 or licensed security service for a purpose permitted under this
7 section;

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

12 (J) use in connection with the operation of a
13 [~~private~~] toll transportation facility or another type of
14 transportation project described by Section 370.003;

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

18 (L) use by a motor vehicle manufacturer,
19 dealership, or distributor, or an agent of or provider of services
20 to a motor vehicle manufacturer, dealership, or distributor, for
21 motor vehicle market research activities, including survey
22 research;

23 (M) use in the ordinary course of business by a
24 person or authorized agent of a person who:

25 (i) holds a salvage vehicle dealer license
26 issued under Chapter 2302, Occupations Code;

27 (ii) holds an independent motor vehicle

1 dealer or wholesale motor vehicle auction general distinguishing
2 number issued under Chapter 503 of this code;

3 (iii) holds a used automotive parts
4 recycler license issued under Chapter 2309, Occupations Code; or

5 (iv) is licensed by, registered with, or
6 subject to regulatory oversight by the Texas Department of Motor
7 Vehicles, the Texas Department of Banking, the Department of
8 Savings and Mortgage Lending, the Credit Union Department, the
9 Office of Consumer Credit Commissioner, the Texas Department of
10 Insurance, the Board of Governors of the Federal Reserve System,
11 the Office of the Comptroller of the Currency, the Federal Deposit
12 Insurance Corporation, the Consumer Financial Protection Bureau,
13 or the National Credit Union Administration; or

14 (N) use by an employer, principal, general
15 contractor, nonprofit organization, charitable organization, or
16 religious institution to obtain or verify information relating to a
17 person who holds a driver's license or the driving history of a
18 person who holds a driver's license if the person is employed by,
19 works under a contract with, or volunteers for the employer,
20 principal, contractor, organization, or institution [~~(L) use for~~
21 ~~any other purpose specifically authorized by law that relates to~~
22 ~~the operation of a motor vehicle or to public safety].~~

23 (a-1) Personal information obtained by the Texas Department
24 of Motor Vehicles in connection with a motor vehicle record may be
25 disclosed:

26 (1) when referring potential violations to the Texas
27 Office of Consumer Credit Commissioner, the Department of Public

1 Safety, law enforcement agencies, or the comptroller, if the
2 personal information is necessary for carrying out regulatory
3 functions;

4 (2) to the attorney general as part of a response by
5 the Texas Department of Motor Vehicles to a subpoena or a discovery
6 request, if the personal information is necessary for litigation
7 purposes; or

8 (3) to a county assessor-collector if the personal
9 information is related to a finding from an audit or investigation
10 conducted under Section 520.010.

11 (a-2) Subsection (a)(2)(C) does not authorize the
12 disclosure of personal information to a natural person who is not a
13 business licensed by, registered with, or subject to regulatory
14 oversight by a government agency.

15 (g) An agency may request that an authorized recipient or
16 other person in possession of personal information disclosed for a
17 use authorized by this section provide to the agency information
18 sufficient for the agency to determine whether the authorized
19 recipient or person has complied with this chapter, agency rules,
20 or other law that applies to the disclosed personal information.
21 The authorized recipient or person shall provide the requested
22 information not later than the fifth business day after the date the
23 agency submits the request unless the agency extends the deadline
24 to provide a reasonable period to produce the requested
25 information.

26 SECTION 9. Chapter 730, Transportation Code, is amended by
27 adding Sections 730.0121, 730.0122, and 730.0123 to read as

1 follows:

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

8 Sec. 730.0122. SALE PROHIBITED. (a) A person may not sell
9 to a person who is not an authorized recipient personal information
10 obtained by an agency in connection with a motor vehicle record.

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

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

18 (1) actual damages;

19 (2) if the actual damages to the person are less than
20 \$2,500, an additional amount so that the total amount of damages
21 equals \$2,500; and

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

24 (b) A person whose personal information has been disclosed
25 for compensation to a person who is not an authorized recipient may
26 sue for:

27 (1) the damages, costs, and fees authorized under

1 Subsection (a);
2 (2) injunctive relief; and
3 (3) any other equitable remedy determined to be
4 appropriate by the court.

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

7 SECTION 10. Section 730.013, Transportation Code, is
8 amended to read as follows:

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

14 (b) An authorized recipient of personal information may
15 [~~resell or~~] redisclose the information, including redisclosure for
16 compensation, only for a use permitted under Section 730.007.

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

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

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

25 (c-1) A person who receives personal information under
26 Subsection (b) may not redisclose the personal information,
27 including redisclosure for compensation, to a person who is not an

1 authorized recipient.

2 (c-2) An authorized recipient shall notify each person who
3 receives personal information from the authorized recipient that
4 the person may not redisclose the personal information to a person
5 who is not an authorized recipient.

6 (d) A person commits an offense if the person violates this
7 section. An offense under this subsection is a misdemeanor
8 punishable by a fine not to exceed \$100,000 [~~\$25,000~~].

9 SECTION 11. The heading to Section 730.014, Transportation
10 Code, is amended to read as follows:

11 Sec. 730.014. AGENCY RULES, [~~ORGANIZATION OF~~] RECORDS, AND
12 CONTRACTS.

13 SECTION 12. Section 730.014, Transportation Code, is
14 amended by adding Subsections (c), (d), (e), (f), and (g) to read as
15 follows:

16 (c) An agency that provides a requestor access to personal
17 information in motor vehicle records in bulk under a contract under
18 Section 730.007 shall include in the contract:

19 (1) a requirement that the requestor post a
20 performance bond in an amount of not more than \$1 million;

21 (2) a prohibition on the sale or redisclosure of the
22 personal information for the purpose of marketing extended vehicle
23 warranties by telephone;

24 (3) a requirement that the requestor provide proof of
25 general liability and cyber-threat insurance coverage in an amount
26 specified by the contracting agency that is:

27 (A) at least \$3 million; and

1 (B) reasonably related to the risks associated
2 with unauthorized access and use of the records;

3 (4) a requirement that if a requestor experiences a
4 breach of system security, as defined by Section 521.053, Business
5 & Commerce Code, that includes data obtained under Section 730.007,
6 the requestor must notify the agency of the breach not later than 48
7 hours after the discovery of the breach;

8 (5) a requirement that the requestor include in each
9 contract with a third party that receives the personal information
10 from the requestor that the third party must comply with federal and
11 state laws regarding the records;

12 (6) a requirement that the requestor and any third
13 party receiving the personal information from the requestor protect
14 the personal information with appropriate and accepted industry
15 standard security measures for the type of information and the
16 known risks from unauthorized access and use of the information;
17 and

18 (7) a requirement that the requestor annually provide
19 to the agency a report of all third parties to which the personal
20 information was disclosed under this section and the purpose of the
21 disclosure.

22 (d) The bond and insurance requirements in Subsections
23 (c)(1) and (3) do not apply to a contract under Section 730.007
24 between a government agency and another government agency,
25 including a court or law enforcement agency.

26 (e) An agency that discloses any motor vehicle records in
27 bulk under Section 730.007 shall include in the records at least two

1 records that are created solely for the purpose of monitoring
2 compliance with this chapter and detecting, by receipt of certain
3 forms of communications or actions directed at the subjects of the
4 created records, potential violations of this chapter or contract
5 terms required by this section.

6 (f) An agency that discloses motor vehicle records shall
7 designate an employee to be responsible for:

8 (1) monitoring compliance with this chapter and
9 contract terms required by this section;

10 (2) referring potential violations of this chapter to
11 law enforcement agencies; and

12 (3) making recommendations to the administrative head
13 of the agency or the designee of the administrative head of the
14 agency on the eligibility of a person under Section 730.016 to
15 receive personal information.

16 (g) This subsection does not affect any rights or remedies
17 available under a contract or any other law. If an agency
18 determines that a person has violated a term of a contract with the
19 agency for the disclosure under this chapter of personal
20 information obtained by the agency in connection with a motor
21 vehicle record, the agency may:

22 (1) cease disclosing personal information to that
23 person; and

24 (2) allow the person to remedy the violation and
25 resume receiving personal information.

26 SECTION 13. The heading to Section 730.016, Transportation
27 Code, is amended to read as follows:

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

3 SECTION 14. Section 730.016, Transportation Code, is
4 amended by amending Subsection (a) and adding Subsection (c) to
5 read as follows:

6 (a) A person who is convicted of an offense under this
7 chapter, or who violates a rule adopted by an agency relating to the
8 terms or conditions for a release of personal information,
9 including a rule adopted under Section 730.0121:

10 (1) [~~to the person,~~] is ineligible to receive personal
11 information under Section 730.007;

12 (2) not later than one year after the date of
13 conviction or the court's final determination under this
14 subsection, shall delete from the person's records all personal
15 information received under this chapter; and

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

18 (c) A person commits an offense if the person violates this
19 section. An offense under this subsection is a misdemeanor
20 punishable by a fine not to exceed \$100,000.

21 SECTION 15. The following provisions are repealed:

22 (1) Section 11.030(d), Parks and Wildlife Code; and

23 (2) Sections 204.011(c) and (d), Transportation Code.

24 SECTION 16. The changes in law made by this Act apply only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect on the date the offense was committed,

1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense occurred
4 before that date.

5 SECTION 17. (a) Section 730.0121, Transportation Code, as
6 added by this Act, applies to a person who received personal
7 information under Chapter 730, Transportation Code, before the
8 effective date of this Act, and is not an authorized recipient, as
9 defined by Section 730.003(1-a), Transportation Code, as added by
10 this Act, of that personal information under Chapter 730,
11 Transportation Code, as amended by this Act.

12 (b) Notwithstanding Subsection (a) of this section, an
13 agency to which Section 730.0121, Transportation Code, as added by
14 this Act, applies may not require a person who received personal
15 information from the agency before the effective date of this Act
16 and is not an authorized recipient, as defined by Section
17 730.003(1-a), Transportation Code, as added by this Act, of that
18 information to delete the information before the first anniversary
19 of the effective date of this Act.

20 SECTION 18. This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 15 passed the Senate on April 14, 2021, by the following vote: Yeas 31, Nays 0; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 15 passed the House, with amendments, on May 25, 2021, by the following vote: Yeas 146, Nays 0, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 140, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor