88R6129 MLH-D

By:  Springer S.B. No. 1440

A BILL TO BE ENTITLED

AN ACT

relating to the processing of certain credit card transactions; creating a criminal offense.

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

SECTION 1.  Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 121 to read as follows:

CHAPTER 121. PROCESSING OF CERTAIN CREDIT CARD TRANSACTIONS

Sec. 121.001.  DEFINITIONS. In this chapter:

(1)  "Abortion-inducing drug" means a drug, a medicine, or any other substance, including a regimen of two or more drugs, medicines, or substances, prescribed, dispensed, or administered with the intent of terminating a clinically diagnosable pregnancy of a woman and with knowledge that the termination will, with reasonable likelihood, cause the death of the woman's unborn child. The term includes off-label use of drugs, medicines, or other substances known to have abortion-inducing properties that are prescribed, dispensed, or administered with the intent of causing an abortion, including the Mifeprex regimen, misoprostol (Cytotec), mifepristone, and methotrexate. The term does not include a drug, medicine, or other substance that may be known to cause an abortion but is prescribed, dispensed, or administered for other medical reasons.

(2)  "Credit card issuer" has the meaning assigned by Section 505.001.

Sec. 121.002.  PROHIBITED TRANSACTIONS. A credit card issuer may not process a transaction for the provision of an abortion-inducing drug by courier, delivery, or mail service.

Sec. 121.003.  CRIMINAL OFFENSE. (a) A credit card issuer that intentionally, knowingly, or recklessly violates this chapter commits an offense. An offense under this subsection is a state jail felony.

(b)  A pregnant woman on whom a drug-induced abortion is attempted, induced, or performed in violation of Section 171.063, Health and Safety Code, is not criminally liable for the violation.

Sec. 121.004.  CIVIL ACTION. (a) A person may bring a civil action against a credit card issuer that violates this chapter.

(b)  Notwithstanding Sections 41.003 and 41.004, Civil Practice and Remedies Code, a person who prevails in an action under this section is entitled to recover:

(1)  treble damages;

(2)  court costs; and

(3)  attorney's fees.

Sec. 121.005.  CONSTRUCTION OF CHAPTER. (a) This chapter shall be construed, as a matter of state law, to be enforceable up to but no further than the maximum possible extent consistent with federal constitutional requirements, even if that construction is not readily apparent, as such constructions are authorized only to the extent necessary to save the chapter from judicial invalidation. Judicial reformation of statutory language is explicitly authorized only to the extent necessary to save the statutory provision from invalidity.

(b)  If any court determines that a provision of this chapter is unconstitutionally vague, the court shall interpret the provision, as a matter of state law, to avoid the vagueness problem and shall enforce the provision to the maximum possible extent. If a federal court finds any provision of this chapter or its application to any person, group of persons, or circumstances to be unconstitutionally vague and declines to impose the saving construction described by this subsection, the Supreme Court of Texas shall provide an authoritative construction of the objectionable statutory provisions that avoids the constitutional problems while enforcing the statute's restrictions to the maximum possible extent and shall agree to answer any question certified from a federal appellate court regarding the statute.

(c)  A state executive or administrative official may not decline to enforce this chapter, or adopt a construction of this chapter in a way that narrows its applicability, based on the official's own beliefs about what the state or federal constitution requires, unless the official is enjoined by a state or federal court from enforcing this chapter.

(d)  This chapter may not be construed to authorize the prosecution of or a cause of action to be brought against a woman on whom an abortion is performed or induced or attempted to be performed or induced in violation of Section 171.063, Health and Safety Code.

Sec. 121.006.  ENFORCEMENT OF CHAPTER. A state executive or administrative official may not decline to enforce this chapter, or adopt a construction of this chapter in a way that narrows its applicability, based on the official's own beliefs on the requirements of the state or federal constitution, unless the official is enjoined by a state or federal court from enforcing this chapter.

SECTION 2.  This Act takes effect September 1, 2023.