

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.

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

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

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

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

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

16 (1) treble damages;

17 (2) court costs; and

18 (3) attorney's fees.

19 Sec. 121.005. CONSTRUCTION OF CHAPTER. (a) This chapter
20 shall be construed, as a matter of state law, to be enforceable up
21 to but no further than the maximum possible extent consistent with
22 federal constitutional requirements, even if that construction is
23 not readily apparent, as such constructions are authorized only to
24 the extent necessary to save the chapter from judicial
25 invalidation. Judicial reformation of statutory language is
26 explicitly authorized only to the extent necessary to save the
27 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

1 applicability, based on the official's own beliefs on the
2 requirements of the state or federal constitution, unless the
3 official is enjoined by a state or federal court from enforcing this
4 chapter.

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