

SUBJECT: Allowing check verification services access to driver's license information

COMMITTEE: Homeland Security and Public Safety —favorable, without amendment

VOTE: 6 ayes — S. Miller, Fletcher, Beck, Driver, Flynn, Walle

2 nays — Burnam, Mallory Caraway

1 absent — Peña

WITNESSES: For — Charles Andrews, Curtis Kantor, Telecheck/First Data Corp.;
(Registered, but did not testify: Lon Craft, Texas Municipal Police Association; Kim Hall, First Data/Telecheck; Rob Johnson, Consumer Data Industry Association; John Kroll, Gemalto, Inc.)

Against — *(Registered, but did not testify: Elizabeth Barnes; Jim Barnes, Fern McClaugherty, OWLS)*

On — Rebecca Davio, Texas Department of Public Safety

BACKGROUND: Transportation Code, sec. 521.126 limits the information contained electronically on the magnetic strip of a driver's license to information printed on the front of the license and a physical description of the licensee. This section also prohibits the transmission and misuse of driver's license information.

DIGEST: HB 2990 would amend Transportation Code, sec. 521.126(e), to allow a business to read a driver's license magnetic strip to furnish information to a check services or fraud prevention services company subject to regulation by the Fair Credit Reporting Act to affect, administer, or enforce a transaction.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 2990 would help provide a more foolproof method for confirming information sent to check verification services to approve transactions. Reading the driver's license data strip would be more accurate than having the clerk type in the driver's license number and information manually. There are many different types of Texas driver's licenses and identification cards currently in circulation, and no store clerk should be expected to identify each kind to determine whether the card is valid.

Businesses need to protect themselves against monetary losses from accepting fraudulent or forged checks. Other customers pay the related costs of those dishonored checks through higher prices. HB 2990 would provide a better method for confirming the check writer's identity than reading the information on the driver's license or scanning the account number on the check. In many cases, bad check writers have many accounts, and check verification services might not have all those accounts in their database. A person's driver's license rarely changes. A more secure personal identity verification process would detect and deter the passing of worthless checks. Payments by check remain a common practice, and losses from dishonored checks run into millions of dollars in Texas.

Concerns about misappropriation of driver's license information are exaggerated. Current check verification technology provides for a read-only process that captures no data. Information from the driver's license or identification card is relayed to the check verification service, which compares the information with its records on fraudulent checks. While the check verification service must maintain up-to-date and current records, there are severe state and federal penalties for misuse of those data. For example, check verification records cannot be used for marketing purposes.

**OPPONENTS
SAY:**

HB 2990 would continue a trend of compromising the security of information contained on the magnetic strips of driver's licenses without necessarily providing material benefits to Texans. Law enforcement agencies and financial institutions have a legitimate need to retrieve and use that data, but the Legislature continues to chip away the initial restrictions on use of those data. Even preventing monetary losses to merchants does not justify the invasion of privacy and potential collection and misuse of those data.

The experience with the unauthorized release of sensitive information by the Comptroller's Office this spring demonstrates that no database is entirely secure.

**OTHER
OPPONENTS
SAY:**

Losses due to fraudulent checks will diminish over time as other technologies replace paper checks. Checks are becoming an old-fashioned method for making purchases, and debit and check cards provide a more secure method of payment for both consumers and merchants. A significant number of Texans no longer have bank accounts of any kind and make all purchases and bill payments through cash or money orders.