

SUBJECT: Prohibiting the use of identifying information without effective consent

COMMITTEE: Pensions, Investments, and Financial Services — favorable, without amendment

VOTE: 10 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Leach, Longoria, Stephenson, Wu

0 nays

1 absent — Lambert

WITNESSES: For — Tim Morstad, AARP; Krista Del Gallo, Texas Council on Family Violence; (*Registered, but did not testify:* Ann Baddour, Texas Appleseed)

Against — None

On — Carla Sanchez-Adams, Texas RioGrande Legal Aid, Inc.; Angela Littwin

BACKGROUND: Under Penal Code sec. 32.51, a person commits an offense if, with the intent to harm or defraud another, that person obtains, possesses, transfers, or uses an item of identifying information of another person without consent.

An offense under this statute is:

- a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if less than five items were obtained, possessed, transferred, or used;
- a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if five to nine items were obtained, possessed, transferred, or used;
- a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if 10 to 49 items were obtained, possessed, transferred, or used; or

- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if 50 or more items were obtained, possessed, transferred, or used.

Business and Commerce Code sec. 502.001 requires a restaurant or bar owner to prominently display a sign stating that it is a state-jail felony to obtain, possess, transfer, or use a customer's debit or credit card number without the customer's consent.

Concerns have been raised that some individuals use threats or fraud to induce a victim to engage in credit-related transactions. This could include a victim in an abusive relationship or an elderly person targeted for identity theft. Some contend that current law regarding the nonconsensual use of identifying information should be revised to address these circumstances.

DIGEST:

HB 2697 would expand the conduct that constituted an offense under Penal Code sec. 32.51 to include obtaining, possessing, transferring, or using an item of identifying information of another person without that person's effective consent.

A sign displayed by a restaurant or bar stating the above offense would have to include the expansion of the offense for using identifying information without a person's effective consent.

The bill would take effect September 1, 2019, and apply only to an offense that was committed on or after that date.