

BILL ANALYSIS

Senate Research Center

H.B. 1855
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a business that accepts checks from customers in the ordinary course of business may enter into an internal electronic database derogatory information about that customer relative to dishonored checks. With the rapidly growing crime of identity theft, it is often a person other than the customer who fraudulently paid the merchant with a forged check. However, many businesses, after entering derogatory data into their databases, are unable to subsequently delete that information when it is later determined that the derogatory information was inaccurate or did not properly pertain to that customer.

H.B. 1855 requires a merchant accepting checks from customers in the ordinary course of business to delete any electronic record indicating that a customer has issued a dishonored check or any other information on which the business bases a refusal to accept a check from a customer at a certain time.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 35, Business & Commerce Code, by adding Section 35.62, as follows:

Sec. 35.62. DELETION OF CERTAIN ELECTRONIC RECORDS CONCERNING A CUSTOMER WHO ISSUES A CHECK. (a) Provides that this section applies only to a business that accepts checks from customers in the ordinary course of business.

(b) Requires a business to delete any electronic record indicating that a customer has issued a dishonored check or any other information except for the checking account number or bank routing transit number on which the business bases a refusal to accept a check from a customer not later than the 30th day after a certain date.

(c) Provides that a business that violates Subsection (b) is liable to the state for a civil penalty of up to \$1,000. Authorizes the attorney general to sue to collect the penalty.

(d) Authorizes the attorney general to recover reasonable expenses incurred in obtaining a civil penalty under Subsection (c), including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) Defines "law enforcement agency."

(f) Provides that this section does not apply to a financial institution as defined by 31 U.S.C. Section 5312(a)(2), as amended.

SECTION 2. Effective date: September 1, 2005.