

## BILL ANALYSIS

Senate Research Center

C.S.H.B. 853  
By: Solomons (Harris)  
Business & Commerce  
5/20/2005  
Committee Report (Substituted)

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Many national retailers have begun to use outside companies to compile consumer information, including a person's name and driver's license number, to place into national databases. These databases are intended to be used to prevent frequent returns by tracking consumers who make a habit of returning merchandise. Although this may be a valid business concern, the rights to privacy of personal information by consumers who legally return merchandise in good faith are being impacted.

C.S.H.B. 853 provides that merchants who require consumers to provide a driver's license or social security number when returning merchandise should use that information for identification purposes only.

### 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 35.581, as follows:

- (a) Authorizes a merchant or a third party under contract with a merchant who requires a consumer returning an item of merchandise to provide the consumer's driver's license or social security number to use the number or numbers provided by the consumer solely for identification purposes if the consumer does not have a valid receipt for the item being returned and is seeking a cash credit, or store credit refund.
- (b) Prohibits a merchant or third party under contract with a merchant from disclosing a consumer's driver's license or social security number to any other merchant or third party not involved in the initial transaction.
- (c) Authorizes a merchant or third party under contract with a merchant to only use a consumer's driver's license or social security number to monitor, investigate, or prosecute fraudulent return of merchandise.
- (d) Requires a merchant or third party under contract with a merchant to destroy or arrange for the destruction of records containing the consumer's driver's license or social security number at the expiration of six months from the date of the last transaction.
- (e) Provides that a person who violates this section is liable to the state for a civil penalty in an amount not to exceed \$500 for each violation. Authorizes the attorney general or the prosecuting attorney in the county in which the violation occurs to bring suit to recover the civil penalty imposed under this section.
- (f) Authorizes the attorney general to bring an action in the name of the state to restrain or enjoin a person from violating this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005