

BILL ANALYSIS

Senate Research Center
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S.B. 1182
By: West, Royce
Criminal Justice
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under Texas Law, it is a state jail felony to transfer, obtain, possess, or use another person's identifying information without the person's permission and with the intent to defraud. It is also against state law to transfer, manufacture, distribute, sell, or possess with intent to sell a forged or counterfeit government-issued identification. It is against the law to tamper with a governmental record or document.

Under the Transportation Code, it is illegal to possess an identifying document that portrays the holder to be 21 or older when the holder is under 21. Under the Transportation Code, it is also illegal for a person to lend the person's identification to another, or to use another person's identification. It is illegal to possess a counterfeit driver's license, or a driver's license that has been altered.

There is no clear law in the Texas Penal Code that addresses a person possessing more than one false identifying document.

As proposed, S.B. 1182 specifically states that it is an offense to possess two or more false identification documents, either documents that contain information that the actor falsely purports to be the actor's identifying information or that contain identifying information of someone other than the actor. This bill's objective is for law enforcement officers to be able to detain or arrest persons for possession of multiple false identifications. It targets persons who are using false identifications to commit crimes involving fraud. This may allow investigation into existing fraud cases, or prevent other cases from occurring. It also catalogues those arrested s being involved in fraud or theft-related crimes. Such law could remove those false identification instruments from circulation and prevent further fraudulent activity.

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 Section 32.51, Penal Code, by amending Subsections (b), (c), and (e) and adding Subsection (f), as follows:

- (b) Adds Subdivision (2) to provide that a person commits an offense if the person possesses two or more documents or instruments, at least one of which purports to identify the actor as the person described or pictured in the document or instrument, and each of which contains identifying information of a person other than the actor or information that the actor falsely purports to be the actor's identifying information. Makes a nonsubstantive change.
- (c) Provides that an offense under this section is a felony of the third degree if is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section.
- (e) Creates an exception, as provided by this subsection, to the rule that if conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law. Provides that if conduct

that constitutes an offense under Section (b)(2) also constitutes an offense under Section 521.453(a) (relating to a person under 21 years of age presenting a false government identification which states an age of 21 years or older), Transportation Code, the person may only be prosecuted under Section 521.453(a), Transportation Code.

(f) Provides that it is a defense to prosecution for possession of the identifying information of another person if the actor has the person's permission.

SECTION 2. Amends Section 421.453(d), Transportation Code, to make a conforming change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.