

BILL ANALYSIS

Senate Research Center
81R3988 BEF-F

S.B. 778
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Business & Commerce
3/19/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The rise in identity theft has prompted many companies to sell noninsurance services to help a consumer prevent or minimize the consumer's risk of identity theft, and if identity theft occurs, to recover the consumer's identity. Some of these services are designed to be sold to consumers and financed into an auto loan when a vehicle is purchased.

Currently, these services are not regulated and it is not sufficiently clear that they can be financed as part of certain car loans.

As proposed, S.B. 778 requires that certain identity theft prevention and recovery services be under the jurisdiction of the Texas Department of Licensing and Regulation pursuant to its existing authority to regulate service contracts, also known as extended warranties, and vehicle protection products. The bill authorizes the identity theft prevention and recovery services to be financed as part of certain car loans.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 2 (Section 1705.002, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1304.003, Occupations Code, by adding Subsection (b-1), as follows:

(b-1) Authorizes a service contract sold by a person licensed under Chapter 2301 (Sale or Lease of Motor Vehicles) to the purchaser of a motor vehicle at the time the purchaser enters into a retail installment transaction, as defined by Section 348.001 (Definitions), Finance Code, to also include an agreement to provide identity recovery services, as defined by Section 1705.001. Prohibits an agreement under this subsection from including an agreement solely to provide credit monitoring services. Provides that Section 1304.158(c) (relating to a refund if a service contract is voided) does not apply to an agreement under this subsection.

SECTION 2. Amends Title 10, Occupations Code, by adding Chapter 1705, as follows:

CHAPTER 1705. IDENTITY RECOVERY SERVICE PROVIDERS

Sec. 1705.001. DEFINITIONS. Defines "commission," "department," "identifying information," "identity recovery service provider," and "identity recovery services."

Sec. 1705.002. RULES. (a) Requires the Texas Commission of Licensing and Regulation (commission) to adopt rules providing license requirements for identity recovery service providers and regulating the practice by identity recovery service providers.

(b) Requires that rules adopted under this chapter protect the public health, safety, and welfare and ensure that identity recovery service providers are able to competently provide identity recovery services.

Sec. 1705.003. ADMINISTRATION BY DEPARTMENT. Requires the Texas Department of Licensing and Regulation to administer this chapter.

Sec. 1705.004. APPLICABILITY OF OTHER LAW. (a) Provides that Chapter 51 (Texas Department of Licensing and Regulation) applies to the licensing and regulation of persons under this chapter.

(b) Provides that Chapter 1702 (Private Security) does not apply to an identity recovery service provider.

Sec. 1705.005. LICENSE REQUIRED. Prohibits a person from providing identity recovery services unless the person holds an identity recovery service provider license issued under this chapter.

Sec. 1705.006. COLLECTION OF FEES. Authorizes a retail installment contract under Chapter 348 (Motor Vehicle Installment Sales), Finance Code, to include as a separate charge an amount for an agreement to provide identity recovery services.

SECTION 3. Amends Subchapter A, Chapter 2306, Occupations Code, by adding Section 2306.0035, as follows:

Sec. 2306.0035. ADDITIONAL SERVICES. Authorizes a vehicle protection product to also include an agreement to provide identity recovery services, as defined by Section 1705.001.

SECTION 4. Requires the commission, not later than January 31, 2010, to adopt rules under Section 1705.002, Occupations Code, as added by this Act and begin issuing identity recovery service provider licenses under Chapter 1705, Occupations Code, as added by this Act.

SECTION 5. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2009.

(b) Effective date, Sections 1304.003(b-1), 1705.005, and 2306.0035, Occupations Code: June 1, 2010.