

- SUBJECT:** Penalty for improper disclosure of early voting roster information
- COMMITTEE:** Elections — favorable, without amendment
- VOTE:** 5 ayes — Denny, Bohac, Anchia, Anderson, J. Jones  
0 nays  
2 absent — T. Smith, Hughes
- WITNESSES:** For — Robert Howard, Libertarian Party of Texas  
  
Against — Doug Toney, Texas Daily Newspaper Association, Texas Press Association  
  
On — *(Registered but did not testify:)* Ann McGeehan, Secretary of State, Elections Division
- BACKGROUND:** Election Code, sec. 87.121 requires early voting clerks to maintain for each election a roster of persons who vote early by personal appearance and a separate roster listing persons to whom an early ballot by mail has been sent. The lists include a person's name, address, and voter registration number, as well as identification of the person's election precinct. During the 2003 regular session, the 78th Legislature amended Election Code, sec. 87.121(f), through HB 54 by Wolens, to prohibit public inspection of the list of voters to whom an early mail ballot has been sent until the first business day after election day, except for a voter seeking to verify his or her own information.
- DIGEST:** HB 377 by Talton would amend Election Code, sec. 87.121(f) to state that a person could not disclose information on the roster of voters to whom a mail ballot had been sent, except to a voter seeking to verify his or her own information, until the first business day after election day. Such a disclosure would be a class C misdemeanor (maximum fine of \$500).

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

By clearly stating that information from lists of early voters to whom mail ballots had been sent could not be disclosed before an election and attaching a criminal penalty to such disclosure, HB 377 would discourage voter fraud. These lists can be used for criminal purposes prior to an election by perpetrators of voter fraud who calculate when and where mail ballots are to arrive, remove them, fraudulently mark them, and mail them back to the early voting clerk without the requesting voter's knowledge or consent. These vote brokers often prey upon the elderly and use ruthless tactics to persuade senior citizens to vote a certain way or to relinquish their mail ballots completely. HB 377 would provide a deterrent against the improper release of such information by election workers.

Current state and federal law provides penalties for removing ballots from mailboxes and marking them without an individual voter's consent, but such crimes frequently are difficult to prosecute. Despite the changes made last session to this provision, reports persist about the use of such lists for the commission of voter fraud. This bill would reduce the incidence of such crimes and the difficulty associated with tracking down offenders after they have marked someone else's ballot.

**OPPONENTS  
SAY:**

Current law involving lists of people requesting early ballots by mail is sufficient to deter voter fraud. There is not enough evidence of bad practices to further restrict the public's right-to-know. By making improper disclosure a misdemeanor, it more likely would punish election officials than perpetrators of voter fraud.