

BILL ANALYSIS

Senate Research Center

H.B. 3672
By: Harper-Brown (Carona)
Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current state and federal laws prohibit the disclosure and use of personal information contained in Texas' motor vehicle records except to authorized users. Authorized users are enumerated in statute and include law enforcement, insurance companies, and private investigators. One such authorized use provision allows "use in the normal course of business." Over the years, conflicting interpretations of this term have been used by the Texas Department of Transportation (TxDOT) in regard to obtaining access to these private records.

The United States District Court for the Eastern District of Texas heard a sweeping lawsuit and issued a final judgment in September 2008 that settled this issue. The ruling contradicts TxDOT's current interpretation regarding those who may acquire personal information for use in the normal course of business. This bill seeks to conform state law to the ruling of the federal court with regard to authorized recipients of private information from a state agency in the normal course of business.

This legislation prescribes the manner in which an authorized recipient is required to safeguard such information from unlawful disclosure. The bill establishes a penalty associated with an unlawful request for personal information and specifies that the provisions of the Motor Vehicles Records Disclosure Act are exclusive and required to be applied uniformly by an agency.

H.B. 3672 relates to the disclosure of personal information under the Motor Vehicles Records Disclosure Act and provides a penalty.

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 730.005, Transportation Code, as follows:

Sec. 730.005. **REQUIRED DISCLOSURE.** (a) Creates this subsection from existing text.

(b) Requires that personal information obtained by an agency in connection with a motor vehicle record be disclosed for use in the normal course of the business of a recipient who obtains personal information for the purpose of processing, collating, organizing, and providing that personal information for a fee to others, but only if the recipient:

- (1) requires those others to clearly establish their authority to obtain the personal information under this chapter;
- (2) in writing informs those others of the limitations in this chapter on the subsequent use of the personal information;
- (3) requires those others to agree in writing that any subsequent use of the personal information obtained from the authorized recipient will be in

compliance with this chapter, including Section 730.013 (Resale or Redisclosure);

(4) requires each of those others to post a surety bond with the requestor, in the amount of \$5,000, conditioned and payable to the State of Texas on the faithful performance of the written agreement under Subdivision (3);

(5) retains and makes available for inspection by the applicable agency for at least five years: the evidence or documents used under Subdivision (1) to establish another's authority to obtain the personal information and each writing required by Subdivision (2) or (3); the Internet IP addresses used by a person who establishes the person's authority over the Internet; and the Internet IP address and query of each search performed over the Internet; and

(6) is not ineligible to receive personal information under Section 730.016 (Ineligibility of Certain Persons to Receive Personal Information).

(c) Prohibits an agency from releasing an individual's social security number or an individual's medical or disability information under this section.

SECTION 2. Amends Section 730.012, Transportation Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Authorizes an agency to require the requestor to make or file a written application in the form and containing any reasonable certification requirement the agency may prescribe.

(c) Provides that the provisions of this chapter are exclusive and are required to be applied uniformly by an agency. Prohibits an agency from adopting or enforcing a rule or policy that is inconsistent with this chapter or 18 U.S.C. Chapter 123 (Prohibition on Release and Use of Certain Personal Information from State Motor Vehicle Records).

(d) Requires the office of the attorney general to develop, in coordination with the agencies of this state that compile or maintain motor vehicle records, and distribute one or more model agreements to be used by all agencies in connection with the disclosure to requestors of personal information in motor vehicle records maintained by those agencies. Provides that a model agreement developed under this subsection supersedes a written application developed by an agency under Subsection (b).

SECTION 3. Amends Chapter 730, Transportation Code, by adding Section 730.0125, as follows:

Sec. 730.0125. SURETY BOND; OFFENSE. (a) Provides this section applies only to a requestor of personal information who requests the information for a use described by Section 730.007(a)(2)(C) (regarding certain limits on the use of personal information).

(b) Requires a requestor, in addition to any other requirement imposed under this chapter, to be required to post a surety bond with the agency from which the personal information is requested, in the amount of \$5,000, conditioned and payable to the State of Texas on the person's faithful performance of the terms and conditions for the release of personal information to the requestor.

(c) Provides that a person who knowingly violates the terms and conditions for the release of personal information to the requestor commits an offense. Provides that an offense under this subsection is a Class A misdemeanor.

SECTION 4. Amends Section 730.015, Transportation Code, by adding Subsections (c), (c-1), and (d), as follows:

(c) Provides that a person commits an offense if the person requests personal information from an authorized recipient who obtained the information in compliance with Section 730.005(b) and misrepresents the requestor's identity or makes a false statement to the authorized recipient in connection with the request for personal information.

(c-1) Provides that a person commits an offense if the person knowingly provides personal information to another in violation of this chapter.

(d) Provides that an offense under Subsection (c) or (c-1) is a misdemeanor punishable by a fine not to exceed \$35,000.

SECTION 5. Amends Section 730.016(a), Transportation Code, to provide that a person who is convicted of an offense under this chapter, or who violates a rule adopted by an agency relating to the terms or conditions for a release of personal information to the person, is ineligible to receive personal information under Section 730.005(b) or 730.007 (Permitted Disclosures).

SECTION 6. Effective date: September 1, 2009.