

## **BILL ANALYSIS**

H.B. 3522  
By: Longoria  
Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

There are concerns that with the proliferation of identity theft cases arising from breaches at large merchants, a growing number of Texans have had credit card and debit card numbers used fraudulently through the creation of counterfeit cards. There is additional concern that stolen cards may be easily used to purchase a number of items before the victim realizes the card is missing. Criminals reportedly prefer to purchase stored value cards such as gift cards because these cards are readily marketable and, since they are intended to be transferred and are anonymous, can easily be used to launder money through transfer to others or used at ATMs to acquire cash.

Interested parties note that certain consumer protection laws seek to protect consumers from loss when their credit or debit cards are used fraudulently. However, it is further noted that these protections place the burden of identifying and reporting potential fraudulent transactions on the consumer and can be costly for the financial institutions who are left liable for the losses incurred. The parties contend that requiring merchants who sell gift cards to implement basic identification procedures would be a simple way of addressing this issue. H.B. 3522 seeks to implement this recommendation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3522 amends the Business & Commerce Code to prohibit a merchant from accepting a credit card or debit card for payment in a point-of-sale transaction for the purchase of, or adding value to, a stored value card unless the merchant requires the individual who uses the card to provide photo identification verifying the individual's identity as the cardholder. The bill's photo identification requirement does not apply if the merchant requires the individual presenting the credit card for payment to provide the individual's zip code to verify the individual's identity, or as to any card transaction, to electronically enter the personal identification number (PIN) associated with the card.

H.B. 3522, in the event the merchant fails to obtain photo identification or a PIN for a card transaction or the individual's zip code for a credit card transaction and the stored value transaction was not authorized by the cardholder, makes the merchant liable to the cardholder or the card-issuing financial institution for all losses that may be attributed to such failure.

H.B. 3522 applies to any point-of-sale transaction in which an individual seeks to pay a merchant for the purchase of, or adding value to, any stored value card.

**EFFECTIVE DATE**

September 1, 2015.