

- SUBJECT:** Revising requirements for DPS disclosure of personal information
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 14 ayes — Wolens, S. Turner, Bailey, Brimer, Counts, Craddick, Danburg, Hunter, D. Jones, Longoria, Marchant, McCall, McClendon, Merritt
- 0 nays
- 1 absent — Hilbert
- WITNESSES:** For — *Registered but did not testify:* Ruth Epstein, ACLU of Texas
- Against — Dwain James, American Collectors Association of Texas
- On — Rebecca Blewett, Frank Elder, Texas Department of Public Safety;
Registered but did not testify: Darrel Hunt, Texas Department of Transportation
- BACKGROUND:** The federal Driver Privacy Protection Act (18 U.S.C.A. §2721) prohibits state departments of motor vehicles from knowingly disclosing or otherwise making available to any person or entity, personal information about any individual obtained in connection with a motor vehicle record. Federal law lists exceptions to the requirement and permissible uses of the information and provides guidelines for the resale or redisclosure of the information.
- In response to federal law, the 75th Legislature enacted SB 1069 by Moncrief to restrict release of driver’s license information and traffic accident reports. It required the Department of Public Safety (DPS) to provide driver’s license or renewal applicants the opportunity to prohibit the agency from disclosing their personal information — an “opt-out” provision.
- In 2000, a state district court ruled that parts of the state laws enacted by SB 1069 were unconstitutional, including a requirement that a person seeking traffic accident information provide the name of a person involved and the date or location of the accident and a restriction on dissemination of accident report information on the Internet.

DIGEST: **Sale of license information.** CSHB 1544 would require DPS to charge a \$10,000 fee for each magnetic tape of license holder information it sold and \$200 for each weekly update.

The bill would eliminate current law provisions requiring that a magnetic tape sold by the department only could contain names, addresses, and dates of birth of persons who had not prohibited the disclosure of personal information. The bill also would eliminate the requirement that a purchaser agreed to delete the personal information of any person on a trade association list requesting that their personal information not be available for solicitation purposes.

Prohibited disclosure of individual information. An abstract of a person's operating record would be added to the list of exceptions to current law prohibiting DPS from disclosing certain personal information in its records.

The bill also would eliminate the opt-out and a related provision.

Release of accident information. CSHB 1544 would amend the information considered to be related to motor vehicle accidents by eliminating information such as dispatch logs, towing information, 9-1-1 records, and other records and replacing it with accident reports and driver's license information.

DPS or a governmental entity would have to release information related to accidents to a requestor who provided two facts of the accident, in addition to other requestors allowed under current law. The bill would eliminate current law provisions requiring the requestor to use a written form adopted by DPS for their request.

The fee for a copy of the report or accident information would be \$10 or the cost for preparing the copy, whichever was greater. The copy could be certified for an additional \$5. The department or governmental entity could issue a certification that no information was on file for a fee of \$10.

The bill would eliminate current law provisions relating to the charges for providing public information.

Motor Vehicle Records Disclosure Act. CSHB 1544 would eliminate motor vehicle market research activities, production of statistical reports, verification of employee commercial drivers license information, bulk distribution for marketing or solicitation, and any other purpose authorized by law from the list of acceptable uses for personal information to be disclosed under the act.

The bill would not prohibit disclosure of a person's photographic image to a law enforcement agency or prosecutor or prevent a court from compelling the production of such an image.

An agency would have to disclose personal information it had obtained if a requestor provided his or her name and address and proved intent to use the information only for the prevention, detection, or protection against identity theft.

An authorized recipient of personal information could not resell or redisclose the information in the same form as it was obtained. Violation of resale or redisclosure requirements would be a misdemeanor offense punishable by a fine up to \$25,000.

A person convicted of violating the act or who violated an agency's rule regarding the disclosure of personal information would be ineligible to receive personal information through permitted disclosure.

The bill would repeal sections of current law relating to the opt-out provision and disclosure of certain information on the Internet.

The bill would take effect September 1, 2001 and would apply to requests for information on or after that date. It would not apply to a civil action instituted on or before that date.

SUPPORTERS
SAY:

CSHB 1544 automatically would "opt-in" all license holders to basic privacy protection. Current law only requires the DPS to notify license applicants of their ability to prohibit the agency's public disclosure of their personal information. Applicants easily can overlook their ability to opt-out of disclosure. The bill would eliminate the opt-out provision and would

prohibit the agency from disclosing any personal information with certain exceptions.

CSHB 1544 would prohibit the sale of personal information for bulk distribution, solicitation, and marketing purposes. In addition, the bill would increase the cost of purchasing driver's license information provided by the DPS. This information often is purchased by companies for use in direct mail marketing and other campaigns aimed at consumers. The state should not be in the business of selling a license holder's personal information to private companies.

CSHB 1544 would put Texas in compliance with amendments to the federal Driver Privacy Protection Act. The state is required to implement the changes within 90 days after convening this legislative session.

OPPONENTS
SAY:

CSHB 1544 would lead to an increased burden on businesses that rely on information bought from the DPS for direct marketing purposes. Many citizens, homeowners, and professional, occupational, and recreational licensees benefit from the release of such information by receiving special offers and opportunities.

Imposing a \$10,000 fee to obtain license holder information could make it impossible for some debt collection agencies to conduct their work. The profession is composed mostly of small agencies that would be unable to afford such a hefty fee for information that only would be used for a short time.

NOTES:

The bill would have an estimated positive fiscal impact of \$382,000 for the biennium due to fee increases.

The substitute imposed a \$10,000 fee for the sale of personal information on magnetic tape, prohibited disclosure of personal information for bulk distribution or other marketing purposes, and provided up to a \$25,000 fine for violating resale or redisclosure requirements.