

- SUBJECT:** Disclosure of customer information by Parks and Wildlife Department
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 7 ayes — Marchant, Madden, J. Davis, B. Cook, Elkins, Goodman, Lewis
0 nays
2 absent — Gattis, Villarreal
- WITNESSES:** For — *(Registered but did not testify:)* Wanda Garner Cash, Texas Press Association and Texas Daily Newspaper Association; MerryLynn Gerstenschlager, Texas Eagle Forum

Against — None

On — *(Registered but did not testify:)* Ann Bright and Frances Stiles, Texas Parks and Wildlife Department
- BACKGROUND:** In 1995, the 74th Legislature enacted Parks and Wildlife Code, sec. 11.030 (HB 2012 by B. Turner), restricting disclosure of the name, address, and telephone, social security, driver’s license, bank account, credit card, or charge card number of a person who buys products, licenses, or services from the Texas Parks and Wildlife Department (TPWD). This statute allows TPWD by rule to adopt policies relating to the sale of mailing lists that contain names and addresses of people who buy products, licenses, or services.
- DIGEST:** CSHB 298 would add to the list of information that TPWD may not disclose, except in certain circumstances involving private landowners, the email address of a person who buys products, licenses, or services from TPWD.

The bill also would repeal TPWD’s authority to adopt policies relating to the sale of mailing lists of people who buy these items and would require TPWD to adopt policies to prohibit the sale of such mailing lists. It would define “mailing lists” as one or more of the following relating to more than one person: name, address, email address, telephone number, social security

number, driver's license number, bank account number, credit card number, or charge card number.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 298 would increase restrictions on the information TPWD can release about customers who buy products, licenses, or services from the agency. It would prohibit TPWD from selling mailing lists that contain this information. Identity theft is the fastest growing crime in the nation, and lawmakers must be vigilant in protecting personal information. This bill would add customer email addresses to the list of information that TPWD cannot release.

Although TPWD has not sold mailing lists of people with hunting and fishing licenses, CSHB 298 would prevent possible future abuse. With increased communications, more and more telemarketers desire information about targeted special interests. Political campaigns, retailers of firearms and outdoor equipment, and various membership groups could seek lists of Texans who hold hunting and fishing licenses. The state should not be in the business of marketing this type of personal information. CSHB 298 would halt such a practice before it became a problem.

**OPPONENTS
SAY:**

Names and addresses collected by the state for various licenses should remain accessible. The public has as much of a right to know about the holders of hunting and fishing licenses and commercial fishing licenses as about the holders of marriage licenses or barbers' licenses. If the state deems an activity worth licensing and requiring a fee, Texans who pay the state to issue and maintain those licenses should have access to them as open records. CSHB 298 would extend even to boat ownership information and could make it difficult to find out if a boat for sale had a prior lien.

CSHB 298 would define mailing lists too broadly. Its definition of a mailing list would apply to a customer who ordered a wildflower tote bag as well as to a commercial fisherman. TPWD sells and trades its magazine subscriber list, and prohibiting that practice could cause a fiscal impact. Current law provides a method by which a person can ask to be excluded from any TPWD mailing lists. It would seem more appropriate for TPWD to retain discretion in the

sale of its current lists rather than to ban the practice entirely. TPWD has yet to sell lists of people who hold hunting and fishing licenses.

NOTES:

As filed, HB 298 would have amended the Open Records Act (Government Code, chapter 552) rather than the Parks and Wildlife Code. It would have restricted disclosure of an electronic or photographic image of a person to whom TPWD had issued a license, but it would not have restricted the disclosure of an email address.

The author plans to offer a floor amendment that would exclude commercial licenses issued by TPWD from the bill's application.