

SUBJECT: Requiring auto manufacturers to provide key code access information

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 4 ayes — Driver, Frost, Ortiz, Vo

2 nays — Latham, West

1 absent — Allen

WITNESSES: For — Patrick O'Reilly, Anne O'Ryan, Linda K. von Quintus, AAA Texas; Kellan Warren, Kellans Mobile Locksmith; (*Registered, but did not testify*: Dave Barber, Southeast Texas Law Enforcement Administrator's Association; Steve Dye, Garland Police Department; Steve Lyons, Houston Police Department; Jeanette Rash, Texas Towing and Storage Association; Mark Shilling, Automotive Parts and Services Association; David Teel, Texas Travel Industry Association; Larry Zacharias, Texas Police Chiefs Association)

Against — Henry H. Brune, Jr., International Association of Auto Theft Investigators/Department of Public Safety Officers Association; Amy Brink, Alliance of Automobile Manufacturers (*Registered, but did not testify*: Tom Blanton, Texas Automobile Dealers Association; James A. "Drew" Campbell, Texas Automobile Dealers Association; Chuck Girard, Honda North America; Tony Reinhart, Ford Motor Company; Ken Roche, Gulf States Toyota; Bernard Rothschild, New Car Dealers of Dallas; Susan Shields, Toyota Motor Sales, USA Inc.)

DIGEST: CSHB 2295 would require a motor vehicle manufacturer to provide access information by phone or electronically to a locksmith that was necessary to enter, start, and operate the motor vehicle. This would include the key code, immobilizer code, or access code. A manufacturer would be required to issue a registration number and security password to a locksmith applying for a registration number.

When a locksmith wanted to receive access information from a manufacturer, the locksmith would have to:

- provide the locksmith's registration number and security password;
- verify the customer's identification;
- provide the vehicle identification number and model number; and
- comply with other reasonable authentication measures required by the manufacturer.

A locksmith could request access information from a manufacturer only upon request of a vehicle owner or the owner's spouse or child if that person was listed on the vehicle's insurance policy. Before requesting access information from a manufacturer, a locksmith would have to inspect:

- a government-issued document showing the owner's name and the vehicle identification number;
- an insurance document showing the name of the person requesting the information and the vehicle identification number; or
- similar documentation from the Department of Public Safety.

The locksmith also would have to follow provisions in current law to verify the customer's identification.

After providing a replacement key or otherwise providing the owner access to the owner's vehicle, the locksmith would have to destroy the access information.

A locksmith would not be liable for theft if the locksmith complied with the bill's requirements, except in the event of fraud or misappropriation of access information.

A manufacturer would not be liable for theft of a motor vehicle for which the manufacturer had provided access information under the requirements of the bill.

A manufacturer would have to retain and make available information for at least 25 years after a motor vehicle was manufactured. The bill would apply only to:

- a motor vehicle other than a motorcycle that accommodated 10 or fewer individuals; and
- a make of motor vehicle of which at least 1,000 were sold in the preceding calendar year.

A manufacturer could perform the duties of the bill directly or through an agent under contract.

A manufacturer would not have to provide access information for a motor vehicle manufactured before January 1, 2008, if the manufacturer did not possess access information for the vehicle on that date.

The bill would take effect January 1, 2008.

**SUPPORTERS
SAY:**

CASHB 2295 would provide a remedy for an individual who owned a car or truck operated by a “smart key” system and lost his or her key. The bill would allow a vehicle owner to call a 24-hour locksmith to gain access to that person’s car if the vehicle owner had lost the owner’s smart key, instead of relying upon a manufacturer-associated dealer.

A smart key system operates with a device embedded with a computer chip that opens and starts a vehicle, rather than a traditional ignition key. A problem arises when an individual loses or breaks a smart key because a locksmith is unable to make a new key for that person. The individual is forced in most cases to have the vehicle towed to an authorized dealer who must request the access code directly from the manufacturer. If an individual finds himself or herself keyless in a remote area, being towed to a dealership can be costly and time consuming. Once at a dealership, receiving the code from the manufacturer can take days or even weeks for some international models, and a replacement smart key can cost more than \$300. This process poses an unfair cost and inconvenience that could be avoided by requiring manufacturers to cooperate with locksmiths in providing the necessary information to unlock a car or furnish a new key.

It would be appropriate to allow locksmiths access to vehicle access information because locksmiths are professionally licensed and strictly regulated. Locksmiths already are invested with substantial trust and responsibility by the state, and must provide fingerprints in order to engage in their occupation. The bill would rely on the effective, existing statutes governing locksmiths and incorporate additional safeguards, such as a unique, manufacturer-issued registration number and password identifying the locksmith to the manufacturer.

The auto industry has moved too slowly in addressing this problem internally, and participation in the industry program manufacturers are developing is entirely voluntary. Other states, including California, have

adopted laws similar to CSHB 2295, and Texas should follow the lead of these states in order to protect consumers who currently are at the mercy of dealers and manufacturers.

**OPPONENTS
SAY:**

CSHB 2295 would compromise the security of smart-key systems. Manufacturers and authorized dealers currently have exclusive access to this information, ensuring that this data remains out of the hands of potential thieves. The bill would force a manufacturer to share this sensitive information with an individual over the telephone with little means to verify that the person asking for the information was who that person purported to be. Current practice may pose slight inconvenience to the vehicle owner, but this is a small price to pay for the prevention of theft.

Automobile manufacturers are developing an industry standard to address the problem that this bill is designed to tackle. It would be more appropriate for Texas to wait for promulgation of uniform standards that would address the security issues related to smart keys and provide a remedy that could be applied in states across the nation.