

SUBJECT: Requiring showing of photo ID for certain stored-value card purchases

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 7 ayes — Parker, Longoria, Capriglione, Flynn, Landgraf, Pickett,  
Stephenson

0 nays

WITNESSES: For — Karen Neeley and Stephen Scurlock, Independent Bankers  
Association of Texas; (*Registered, but did not testify*: Melodie Durst,  
Credit Union Coalition of Texas; Don Jones, Firstmark Credit Union; Jeff  
Huffman, Texas Credit Union Association; Fred Hagerman)

Against — Ronnie Volkening, Texas Retailers Association; (*Registered,  
but did not testify*: Annie Spilman, National Federation of Independent  
Business/TX; Matt Burgin, Texas Food and Fuel Association; Justin  
Bragiel, Texas Hotel and Lodging Association; Marla Flint)

On — None

DIGEST: HB 3522 would require an individual to verify his or her identity when  
purchasing or adding value to any stored value card in a point-of-sale  
transaction.

Under the bill, a “card” would mean a credit card or debit card.  
“Cardholder” would mean the person named on the face of a credit or  
debit card. “Photo identification” would mean a card or other document  
issued by a governmental entity that identified an individual and displayed  
the individual’s photograph.

HB 3522 would prohibit a merchant from accepting a credit or debit card  
for payment from someone buying or adding value to a stored value card  
if the individual attempting to pay with the credit or debit card did not  
verify his or her identity as the cardholder by showing photo  
identification. The individual presenting a card also could submit to the

merchant as proof of identity the electronic entry of a personal identification number (PIN) associated with a credit or debit card or, for a credit card transaction, the individual's zip code.

If the merchant failed to verify the identity of the individual presenting the card for payment, and the cardholder did not authorize the credit or debit card transaction, then HB 3522 would make the merchant liable to the cardholder or the card-issuing financial institution for all losses attributed to that failure.

The bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

HB 3522 would significantly cut down on fraudulent purchase of stored-value cards, such as gift cards, with stolen credit or debit cards by requiring merchants to simply check the photo ID of the person presenting the credit or debit card at the time of the transaction or requiring other verification of the person's identity. This bill would make it more difficult for criminals to use stolen cards and would protect consumers and financial institutions from significant losses.

By requiring merchants to check identification only when a person tried to buy or add value to a gift card, HB 3522 would be simpler and more effective than existing safeguards designed to protect against the costs and hassle associated with credit or debit card theft. Under current consumer protection laws, such as the Truth in Lending and Electronic Fund Transfer Act, consumers can avoid losses that result from the theft of their cards only by being alert in checking their statements and reporting fraudulent transactions to the bank. Consumers bear the burden of complying with rules regarding unauthorized transactions on their accounts, and banks are left to cover resulting losses and to re-issue stolen cards. HB 3522 would protect against those negative consequences by requiring merchants who accept credit and debit cards to carry out basic identity verification procedures.

Any burden placed on merchants under HB 3522 would be minimal and necessary to prevent the purchase of stored value cards with stolen credit

or debit card information. Checking a photo ID is a quick process that does not slow down a cashier line, and not taking this simple step places a burden on consumers and their banks. Retailers have an obligation to protect the credit card transaction system that helps support their businesses. Many merchants already are taking these steps to identify cardholders, and HB 3522 simply would put this procedure into statute for those few merchants who do not already observe these practices.

While EMV cards that include a PIN and chip are more secure, transitioning to EMV cards in the United States would not prevent the use of stolen cards. An unauthorized charge on a stolen EMV card still could be processed, and the identity of the cardholder would not be verified until after the fraudulent transaction was completed.

**OPPONENTS  
SAY:**

In attempting to help consumers and financial institutions, HB 3522 could harm retailers. The bill would shift a burden and cost to retailers by making them liable for losses and imposing procedural burdens that would slow down their transaction times for each sale. It would not address the entire problem and would leave too many gaps in statute that would allow criminals to continue using stolen credit and debit cards for gift card purchases. Allowing merchants to require only a zip code from an individual who presents a card for purchase would be too broad and permissive because some small counties may have only one zip code.

Requiring merchants to ask for photo identification could be asking merchants to break the agreements they sign with credit card companies. Under these agreements, merchants cannot refuse to complete a transaction if an individual refuses to present a photo ID. Instead of the measures proposed in HB 3522, penalties should be placed on credit card issuers responsible for these card agreements.

**OTHER  
OPPONENTS  
SAY:**

Although the bill intends to address a serious problem in consumer protection, HB 3522 would not be the most effective remedy to solve the problem of criminals using stolen credit or debit cards to purchase stored-value cards. Changing the old magnetic stripe credit card system to one based on the use of EMV cards would be much more secure. EMV cards

include an imbedded chip and use encryption to protect transaction data. As a result, data from these cards are harder to steal and any data obtained are less valuable. This system is set to be in place by October of this year and would better solve the problems this bill is trying to cure.

NOTES: HB 3522 is similar to SB 1778 by Menéndez, which was referred to the Business and Commerce Committee on March 24.