

SUBJECT: Limiting disclosure or sale of certain personal information by agencies

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Lozano,  
Martinez, Ortega, Perez, Rogers, Smithee

0 nays

2 absent — Harris, Landgraf

SENATE VOTE: On final passage, April 14 — 31-0

WITNESSES: For — Steve Bresnen, Insurance Auto Auctions; David Foy, LexisNexis and RELX; (*Registered, but did not testify*: Brian Yarbrough, CARFAX, Inc.; Murray Johnston, Experian; John. T. Montford, General Motors; Mike Sullivan, Group 1 Automotive; Bruce Noll, IHS Markit and R.L. Polk; Christopher Young, Linebarger; Lori McMahon, Toyota Motor North America; Thomas Parkinson; Tom "Smitty" Smith)

Against — Bruce Stringfellow, Publicdata.com; Harmon Hardy, Quickview Technologies, Inc.

On — (*Registered, but did not testify*: Sheri Gipson, Department of Public Safety; Laird Doran, Gulf States Toyota; James Bass, Texas Department of Transportation; Erin Dinsmore and Ellen Webking, Texas Department of Motor Vehicles)

DIGEST: CSSB 15 would establish the Texas Consumer Privacy Act Phase I to revise the Motor Vehicle Records Disclosure Act and limit the disclosure of personal information by certain state agencies.

**Motor vehicle records disclosure.** CSSB 15 would amend the Motor Vehicle Records Disclosure Act to specify the authorized use of personal information obtained in connection with a motor vehicle record, provide for the deletion of certain information, authorize civil suits for the

unauthorized use of information, and make other changes.

*Definitions.* The bill would amend the definition of "personal information" to include a person's date of birth and email address. Under the bill, an "authorized recipient" would be a person who was permitted to receive and use personal information from an agency in a manner authorized by statute.

*Authorized use of personal information.* The bill would remove a provision allowing an agency to disclose to any requestor personal information obtained in connection with a motor vehicle record if the information would be used for motor vehicle market research activities or any purpose specifically authorized by law that related to the operation of a motor vehicle or public safety.

Instead, the bill would authorize the disclosure of personal information for:

- use by a motor vehicle manufacturer, dealership, or distributor for motor vehicle market research activities;
- use in the ordinary course of business by a licensed salvage vehicle dealer, independent motor vehicle dealer, wholesale motor vehicle auctioneer, automotive parts recycler, or certain other entities; or
- use by an employer, principal, general contractor, nonprofit, charitable organization, or religious institution to obtain or verify information relating to an employee, contractor, or volunteer who held a driver's license.

Personal information obtained by the Texas Department of Motor Vehicles (TxDMV) in connection with a motor vehicle record could be disclosed:

- when referring potential violations to the Texas Office of Consumer Credit Commissioner, Department of Public Safety (DPS), or the comptroller, if the information was necessary for carrying out regulatory functions; or

- to the attorney general as part of a response by TxDMV to a subpoena or a discovery request, if the information was necessary for litigation purposes.

An agency could request that an authorized recipient or other person in possession of personal information disclosed for an authorized use provide information sufficient for the agency to determine whether the recipient or person had complied with applicable rules and laws. The recipient or person would have to provide the information no later than five business days after the request unless the agency extended the deadline.

The bill would specify that personal information obtained by an agency in connection with a motor vehicle record would have to be disclosed to a requestor who was the subject of the information.

*Deletion of information.* An agency would have to require a requestor to delete from their records personal information received from the agency if the requestor became aware that they were not an authorized recipient.

*Civil suit.* A person who disclosed personal information for compensation to a person who was not an authorized recipient would be liable to the person who was the subject of the information for:

- actual damages;
- if actual damages were less than \$2,500, an additional amount such that the total amount of damages was \$2,500; and
- court costs incurred by the person who was the subject of the information in bringing the action.

A person whose personal information was disclosed for compensation to an unauthorized recipient could sue for:

- the damages, costs, and fees described above;
- injunctive relief; and
- any other equitable remedy determined to be appropriate by the

court.

A district court would have exclusive original jurisdiction over a cause of action brought under this bill.

*Redisclosure prohibited, fine increased.* A person who received personal information could not redisclose the information, including redisclosure for compensation, to a person who was not an authorized recipient. An authorized recipient would have to notify each person who received personal information that the person could not redisclose it to a person who was not an authorized recipient.

The bill would increase the maximum fine for violating provisions regarding redisclosure from \$25,000 to \$100,000.

*Bulk record contracts.* An agency that provided a requestor access to person information in motor vehicle records in bulk under a contract would have to include in the contract:

- a requirement that the requestor post a performance bond of up to \$1 million;
- a prohibition on the sale or redisclosure of the information for the purpose of marketing extended vehicle warranties by phone;
- a requirement that the requestor provide proof of general liability and cyber-threat insurance coverage of at least \$3 million that was reasonably related to the risks associated with unauthorized access and use of the records;
- a requirement that if the requestor experienced a breach of system security, they would notify the agency within 48 hours of the discovery of the breach; and
- certain requirements regarding third party contracts made by the requestor.

An agency that disclosed any motor vehicle records in bulk would have to include in the records at least two records that were created solely for the purpose of monitoring compliance and detecting potential violations of

the act or contract terms. The agency would have to designate an employee to be responsible for monitoring compliance, referring potential violations to law enforcement agencies, and making recommendations on the eligibility of a person to receive personal information.

These provisions would not affect any rights or remedies available under a contract or other law. If an agency determined that a person had violated a term of a contract regarding the disclosure of personal information, the agency could cease disclosing information to that person and allow the person to remedy the violation and resume receiving the information.

*Ineligibility to receive information, creating penalty.* The bill would provide that in addition to being ineligible to receive personal information, a person who was convicted of an offense under the Motor Vehicle Records Disclosure Act or who was determined in a civil action to be in violation of the act:

- would have to delete all personal information no later than one year after the conviction or final determination; and
- could not redisclose personal information.

If a person violated these provisions, they would commit a misdemeanor punishable by a fine of up to \$100,000.

**State agency disclosure and sale of information.** CSSB 15 would limit the sale or disclosure of personal information by certain state agencies.

*Texas Parks and Wildlife Department.* The bill would prohibit the sale, rental, or trading of the name, address, phone number, and other information of a person who purchased customer products, licenses, or services from the Texas Parks and Wildlife Department (TPWD). The Texas Parks and Wildlife Commission no longer could adopt policies regarding the sale of a mailing list consisting of the names and addresses of persons who purchased such products or services.

TPWD could disclose statistical data and compilations of customer

information if it did not reveal information identifying a specific customer or their address, phone number, social security number, or driver's license. TPWD could disclose customer information only:

- to another governmental body, including a law enforcement agency, as needed to carry out a governmental purpose;
- if the customer consented in writing to the specific disclosure; or
- if the information was part of a public record or was otherwise authorized to be disclosed under current law.

These provisions would not authorize TPWD to disclose information it was prohibited from disclosing under other law.

*Texas Department of Transportation.* CSSB 15 would repeal statutes allowing the Texas Transportation Commission to establish policies relating to the release of subscriber or purchaser information, the use by the Texas Department of Transportation of subscriber and purchaser information, and the sale of a mailing list containing the names and addresses of subscribers or purchasers.

*Department of Public Safety.* The bill would make it an offense if a person disclosed or sold information collected in relation to a vehicle inspection program about a unique customer or vehicle owner, including their name, address, or phone number, to a person other than DPS or the subject of the information.

**Applicability, effective date.** Provisions of the bill regarding certain offenses would apply only to an offense committed on or after the bill's effective date.

Provisions of the bill requiring unauthorized recipients of personal information to delete the information from their records would apply to a person who received the information before the bill's effective date. However, an agency could not require such a person to delete the information before the first anniversary of the bill's effective date.

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, 2021.

**SUPPORTERS  
SAY:**

CSSB 15 would establish the Texas Consumer Privacy Act Phase I to update current law and limit state agencies' ability to sell or disclose personal information to third parties, protecting consumer privacy.

While unknown to many, certain governmental entities have the ability to sell, disclose, and allow the resale of personal information attached to motor vehicle records. Motor vehicle records can include information on the registration, title, and operator's or driver's license, which can contain a person's photograph, name, address, phone number, date of birth, email address, and vehicle identification number. Today, there are more than one thousand entities with whom these records are shared by the Department of Public Safety or Department of Motor Vehicles. Because the agencies cannot control how that information is then passed on, the information can end up in the hands of bad actors. This can lead to fraudulent behavior, such as calls about a person's vehicle warranty.

CSSB 15 would revise how this personal information is used by state agencies to ensure proper measures were in place to protect consumer information. The bill would clarify the permissible uses of data to ensure that state agencies and certain authorized entities still could perform essential functions, such as conducting background checks or law enforcement activities. The resale or redisclosure of personal information to unauthorized users would be prohibited, and the bill would impose and increase certain penalties to enforce this prohibition. In addition, the bill would update the law to account for advances in technology and add cybersecurity measures for bulk records contracts, such as cybersecurity insurance. Agencies would have to salt the data in bulk records by inserting at least two dummy records for the purpose of preventing and tracking unauthorized intrusions.

Overall, the bill would ensure that legitimate users retained access to motor vehicle records while preventing bad actors from accessing

consumers' personal data.

**CRITICS  
SAY:**

CSSB 15 could have unintended consequences for the legitimate use of consumer information and may not solve the problem of scam calls about a person's vehicle warranty. Current laws already provide for the proper disclosure of public information and protect against the illegal use of private information. By revising the authorized uses of motor vehicle record information, the bill could restrict access to public information, which can sometimes be used for things like addressing identity theft. Agencies may have difficulty complying with the bill, and any impact to operations could lead to further interruptions in access to information. Before making such changes, the Legislature should first study how the information is being used by Texans and businesses. In addition, scam calls already are prohibited by certain federal and state laws, and the bill would not address the system of illegal telemarketing these calls go through.

**NOTES:**

According to the fiscal note, the bill would cost various funds in fiscal 2022-23, including \$120,000 from appropriated receipts and \$696,708 from the Texas Department of Motor Vehicles Fund. The bill also would lead to revenue losses of \$140,000 from appropriated receipts and \$74,000 from the State Highway Fund.