

BILL ANALYSIS

Senate Research Center
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H.B. 2320
By: Cuellar (Sibley)
Economic Development
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Engrossed

DIGEST

In 1991, the 72nd Legislature enacted the Currency Exchange Act to curb the ability of criminal organizations to launder money through illicit currency exchange houses. The primary means established to detect money laundering were licensing and record keeping requirements. Despite these requirements, drug dealers were still able to launder money by transporting it across the border. In 1993, the 73rd Legislature enacted H.B. 474 to regulate and require licenses of persons engaged in the transportation of currency. Licenses are valid for one year and must be prominently displayed. It is a third-degree felony to knowingly violate currency exchange laws. H.B. 2320 would revise Finance Code provisions regarding the regulation of currency exchange, transmission, and transportation businesses.

PURPOSE

As proposed, H.B. 2320 sets forth provisions regarding the licensing and regulation of currency exchange, transmission, and transportation businesses.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Finance Commission of Texas in SECTION 3 (Section 153.002, Finance Code); and to the banking commissioner of Texas in SECTIONS 7 and 9 (Sections 153.117(a)(8) and 153.205(b), Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 59.201(a), Finance Code, to authorize a person to install, maintain, and operate one or more electronic terminals at any location in this state for the convenience of customers of depository institutions, subject to Chapter 153. Makes a conforming change.

SECTION 2. Amends Section 153.001, Finance Code, by amending Subdivisions (5), (6), (7), and (10) and by adding Subdivision (11), to redefine "currency exchange, transportation, or transmission business," "currency transmissions," "currency transportation" and to define "instrument." Makes a conforming change.

SECTION 3. Amends Section 153.002, Finance Code, to require the Finance Commission of Texas (commission) to adopt rules necessary or desirable to implement this chapter, including rules regarding requirements for or conditions applicable to an exemption from the licensing requirements of this chapter. Deletes text regarding requirements. Makes a conforming and nonsubstantive change.

SECTION 4. Amends Section 153.102(d), Finance Code, to require an applicant for a license to demonstrate that the applicant has and will maintain a minimum net worth of \$25,000 or, if the applicant will engage in currency transmission transactions at multiple locations in this state in accordance with Section 153.105, a minimum net worth of \$25,000 multiplied by the number of locations, computed according to generally accepted accounting principles, except that the applicant may not be required to maintain a net worth of more than \$1 million. Deletes text regarding recklessly failing to file a report. Deletes text regarding location at which currency is accepted for transmission and accounting principles.

SECTION 5. Amends Section 153.105, Finance Code, to authorize a license holder to conduct currency exchange, transmission, or transportation business at multiple locations in this state if each location, whether the location is owned and operated directly by the license holder or by a principal appointed by the license holder, is separately licensed pursuant to an application submitted in accordance with this chapter. Deletes text requiring an applicant to submit a separate application for each location at which the

business is to be operated.

SECTION 6. Amends Section 153.109, Finance Code, by adding Subsection (f), to authorize the banking commissioner of Texas (commissioner), on a case-by-case basis in the exercise of discretion, to reduce the amount of the bond or letter of credit required by Subsection (c) if the commissioner finds that the amount of the reduced bond or letter of credit is sufficient to protect the public interest on application. Sets forth provisions for the commissioner to consider.

SECTION 7. Amends Sections 153.117(a) and (e), Finance Code, to set forth the persons not required to be licensed under this chapter. Provides that a person engaged in the business of currency transportation who is both a registered motor carrier under Chapter 643, Transportation Code, and a licensed armored care company or courier company under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), V.T.C.S.), is not required to be licensed under this chapter. Provides that this exemption does not authorize the person to engage in the business of currency exchange or transmission without a license issued under this chapter.

SECTION 8. Amends Section 153.204, Finance Code, as follows:

Sec. 153.204. New heading: PROHIBITED ACTIONS. Authorizes the commissioner to take an action authorized under Section 153.407 if the commissioner finds that a person violated or refused certain conditions. Deletes text regarding contacting the license holder. Deletes text regarding a notice and a meeting. Make a nonsubstantive change.

SECTION 9. Amends Section 153.205(b), Finance Code, to authorize the commissioner, by rule, to establish requirements regarding content and the size and type of lettering used in an advertisement for prices or rates. Makes a nonsubstantive change.

SECTION 10. Amends Section 153.301(a), Finance Code, to authorize the commissioner periodically to examine the business records of a license or any principal of the license holder at the license holder's expense and to require a license holder with multiple locations in this state licensed in accordance with Section 153.105 to make business records for all licensed locations available for examination at a specified licensed location.

SECTION 11. Amends Section 153.305(c), Finance Code, to authorize information to be released under Subsection (b)(3) only to an agency, department, or instrumentality of this state, another state, the United States, or a foreign country or to a law enforcement agency of a municipality or political subdivision of this state or another state. Makes conforming changes.

SECTION 12. Amends Section 153.401, Finance Code, by adding Subsection (c), to provide that it is a defense to prosecution under this section if the alleged violation was committed by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person acting on request of a peace officer with the intent to facilitate a legitimate law enforcement investigation conducted under the laws of this state.

SECTION 13. Amends Section 153.407, Finance Code, as follows:

Sec. 153.407. New heading: CEASE AND DESIST ORDERS; SEIZURE ORDER. Authorizes the commissioner to serve a written order on any person to cease and desist from a violation practice and require an affirmative action necessary to correct the conditions resulting from the violation or practice. Requires the commissioner to serve the order on the license holder, the board of directors of the license holder, and any offending principal, if the person is a license holder or a principal of a license holder. Authorizes the commissioner to issue an order to seize the assets and records that relate to a currency exchange, transmission, or transportation business if the commissioner finds, by examination or to the credible evidence, that the currency exchange, transmission, or transportation business has violated or refused to comply with this chapter, a rule adopted under this chapter, or any other law or regulation applicable to a currency exchange, transportation, or transmission business. Provides that the actions authorized by this section are in addition to and not in lieu of other actions the commissioner considers appropriate under applicable law, including action under Chapter 35C. Deletes text regarding a meeting conducted under Section 153.204.

SECTION 14. Repealer: Section 153.003, Finance Code (exempting an attorney or title company).

Repealer: Section 153.108(c), Finance Code (regarding issuance of license).

SECTION 15. Emergency clause.
Effective date: upon passage.