

BILL ANALYSIS

Senate Research Center

S.B. 1381
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Business & Commerce
7/17/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The proliferation of highly publicized data security breaches at some of the nation's largest retailers—as well as numerous breaches at less visible entities—over the past several years is an ongoing concern not only for consumers but also for community financial institutions. Data compromised in these breaches can be used to create fraudulent debit and credit cards which can then be utilized in person as well as through Internet and telephone—or "card not present"—transactions. Additionally, lost and stolen credit and debit cards are frequently used by criminals to make purchases before the consumer realizes that his/her card is missing.

In most cases, the bank that issued the card ends up taking the loss for the fraud as well as absorbing the costs to reissue the compromised card. This has been an ongoing and costly frustration for community bankers across the state.

While clearly not a panacea, S.B. 1381 allows a merchant to request government-issued photo identification at point of sale and will provide the ability for that merchant to decline a transaction if they so choose. Due to the implementation of card chip technology and certain shifts in liability for fraudulent purchases merchants may now be “on the hook” for some losses resulting from fraudulent transactions. This legislation will provide merchants with an additional tool to attempt to minimize fraudulent transactions and losses. The bank issuing the card will also potentially be protected from further losses due to fraud, and the cardholder may avoid the aggravation of dealing with fraudulent purchases.

The option to turn down a transaction if a customer fails to provide photo ID verifying their identity is not currently available to merchants due to restrictive terms of the agreements with the major credit card companies. MasterCard and VISA agreements stipulate that a merchant may request photo identification, but a merchant is prohibited from denying a transaction if the customer is unwilling or unable to produce acceptable identification.

It is important to note that S.B. 1381 is entirely permissive; there are absolutely no penalties for not requesting validation of identification, and the legislation does not stipulate a shift in liability between the parties.

This proposal addresses only a small portion of card fraud—primarily when a card has been lost or stolen—but will result in fewer losses for banks, merchants, and more importantly, consumers. (Original Author's / Sponsor's Statement of Intent)

S.B. 1381 amends current law relating to photo identification for certain debit or credit card transactions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 11, Business & Commerce Code, by adding Chapter 508, as follows:

CHAPTER 508. REQUIRING VERIFICATION OF IDENTITY FOR CERTAIN CARD
TRANSACTIONS

Sec. 508.001. DEFINITIONS. Defines “cardholder,” “credit card,” “debit card,” “merchant,” “mobile wallet,” and “photo identification.”

Sec. 508.002. REQUIRING PHOTO IDENTIFICATION FOR CREDIT OR DEBIT CARD TRANSACTION. (a) Authorizes a merchant, in a point of sale transaction, to require the individual using the credit card or debit card to provide photo identification verifying the individual’s identity as the cardholder.

(b) Authorizes a merchant to choose to not accept the card for payment if the individual fails to provide photo identification verifying the individual’s identity as the cardholder.

(c) Provides that this section does not apply to transactions conducted with a mobile wallet.

Sec. 508.003. EXPIRATION. Provides that this chapter expires September 1, 2023.

SECTION 2. Effective date: January 1, 2018.