
**HOUSE COMMITTEE ON PUBLIC SAFETY
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2000**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
77TH TEXAS LEGISLATURE**

**BOB TURNER
CHAIRMAN**

**COMMITTEE CLERK
JIM REAVES**



Committee On
Public Safety

October 13, 2000

Bob Turner
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable James E. "Pete" Laney
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Public Safety of the Seventy-Sixth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-Seventh Legislature.

Respectfully submitted,

Bob Turner, Chairman

Terry Keel

Leo Berman

Bill Carter

Joe Driver

Roberto Gutierrez

Suzanna Hupp

Phil King

Manny Najera

Terry Keel
Vice-Chairman

Members: Leo Berman, Bill Carter, Joe Driver, Roberto Gutierrez, Suzanna Hupp, Phil King, Manny Najera

TABLE OF CONTENTS

INTRODUCTION.....4

HOUSE COMMITTEE ON PUBLIC SAFETY-
INTERIM STUDY CHARGES AND ASSIGNMENTS.....5

EVALUATION OF COUNTY AND MUNICIPALITIES NEEDS
TO CONDUCT MOTOR CARRIER SAFETY INSPECTIONS.....6

EVALUATION OF THE “ONE CALL TO DIG” PROGRAM.....9

EVALUATION OF THE USE OF SOCIAL SECURITY NUMBERS.....14
TO OBTAIN A DRIVER’S LICENSE

EVALUATION OF THE MANNER IN WHICH DRIVER’S.....18
LICENSE INFORMATION IS MADE AVAILABLE FOR
PUBLIC SAFETY AND COMMERCIAL PURPOSES

HOUSEBILL 571, 76th LEGISLATIVE SESSION.....24

SUBMITTED COMMENTS BY COMMITTEE MEMBERS.....27

ENDNOTES.....31

INTRODUCTION

On January 28, 2000, the tenth day of the 76th Legislature, the Honorable James E. “Pete” Laney, Speaker of the House of Representatives, appointed the following members to the House Committee on Public Safety: Bob Turner, Chairman, Terry Keel, Vice-Chairman and members: Leo Berman, Bill Carter, Joe Driver, Roberto Gutierrez, Suzanna Hupp, Phil King, and Manny Najera.

During the interim, the committee was assigned five charges by the Speaker:

1. Evaluate the need for county or municipal law enforcement officers to conduct motor carrier safety inspections.
2. Review the “One Call to Dig” program to determine how well it is working.
3. Study all issues surrounding the use of social security numbers to obtain a driver’s license. The study should consider federal laws and rules as well as issues related to privacy and identity theft.
4. Review the manner in which driver’s license information, including arrests, convictions and other personal information, is made available for public safety and commercial purposes. The review should consider the parties who may obtain such information, the security information, and the extent to which the system meets the needs of the requested parties.
5. Conduct active oversight of the agencies under the committee’s jurisdiction.

**HOUSE COMMITTEE ON PUBLIC SAFETY
INTERIM STUDY CHARGES AND ASSIGNMENTS**

CHARGE Evaluate the need for county or municipal law enforcement officers to conduct motor carrier safety inspections.

Bob Turner, Chairman
Joe Driver
Terry Keel
Bill Carter

CHARGE Review the “One Call to Dig” program to determine how well it is working.

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Suzanna Hupp

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Bob Turner, Chairman
Terry Keel
Bill Carter
Phil King
Suzanna Hupp

CHARGE Conduct active oversight of the agencies under the committee’s jurisdiction.

Bob Turner, Chairman
Leo Berman
Manny Najera

Phil King

**EVALUATION OF COUNTY AND MUNICIPAL LAW
ENFORCEMENT NEEDS TO CONDUCT MOTOR
CARRIER SAFETY INSPECTIONS**

CHARGE: Evaluate the need for county or municipal law enforcement officers to conduct motor carrier safety inspections.

BACKGROUND

Currently, the Texas Department of Public Safety enforces the federal motor carrier safety regulations and federal hazardous material’s regulations. Under current law, the enforcement of these regulations is permitted by a peace officer in a city with a population of 100,000 or more or a city of 25,000 or more in a county with a population of 2.4 million or more.

ANALYSIS OF THE PROBLEM

Large counties in the State of Texas are incurring an increase in traffic fatalities. Texas rated number one in 1999 with 477 fatalities¹. This was ninety more than second place California. The committee found that un-safe trucks are a major cause of this statistic. Many complaints rise from trucks diverting their routes through residential areas to miss the Department of Public Safety’s inspection stations. The re-routed trucks cause a safety concern to children and others in these neighborhoods.

MARCH 21, 2000, PUBLIC HEARING

The committee held a public hearing in Austin, Texas on March 21, 2000, to allow the public the opportunity to testify on the issue. The following people testified before the committee:

<u>Name</u>	<u>Representing</u>	<u>Stance</u>
John Denholm	Harris County Sheriff’s Department	For
Gary Lindsey	Dallas County Sheriff’s Department	For
Mike West	Self	For
Larry Zacharias	City of Richardson	For
C.J. Clausner	Houston Police Department	For
John Branton	Dallas Police Department	On
Carlos Lopez	Texas Department of Transportation	On
Lester Mills	Texas Department of Public Safety	On
Keith Ormsto	Self	On
Bill Webb	Texas Motor Transportation Association	On

CONCLUSION

The committee determined that there needs to be more peace officers with the authority to inspect trucks, especially in urban areas. The committee does not want to interfere with interstate or intrastate commerce, but this is a major safety concern. If local municipalities and sheriff departments could inspect at random places and random times, we might be able to stop truck traffic through residential neighborhoods.

RECOMMENDATION

1. Amend section 644.101 of the Transportation Code to include that a police officer of a municipality of 25,000 or more, any part of which is located in a county with a population of 1.8 million, may be certified by the Texas Department of Public Safety to inspect trucks.
2. Amend section 644.101 of the Transportation Code to include that a sheriff or sheriff's deputy of a county with a population of 270,000 or more is eligible for certification under this section. Also, the sheriff or sheriff's deputy must be re-certified biennially in order to enforce this chapter.
3. In the 77th Legislative Session, the committee believes that implementation of a ninety day pass should be given to trucks that pass safety inspection. This would help responsible truck companies continue their service and would not interfere with interstate or intrastate commerce as much.

**EVALUATION OF THE
“ONE CALL TO DIG” PROGRAM**

CHARGE: Review the “One Call to Dig” program to determine how well it is working.

BACKGROUND

Currently, there are three One-Call Systems operating in the State of Texas, which are Texas One Call/One Call Systems, One Call Concepts, and Texas Excavation Safety Systems. There is currently no regional break down of the service, and the market is open to choice. Texas Excavation Safety Systems is a non-profit organization, whereas the others are for-profit.

ANALYSIS

The main issue is whether the state of Texas should divide the one-call systems into regions or leave it the way it is. The committee received arguments that supported both options, and this is the information gathered:

One Call Concepts (for-profit) submitted reasons for dividing the state into regions:

1. One call programs are designed to promote ease of use for call center’s members (utilities) and for those who have a call (excavation). The national study, Common Ground, which developed a list of best practices, states that “ this case of use is enhanced when a one call center serves a specifically defined geopolitical area that does not coincide with the service area of another one call center.”
2. With the current system, there is a duplication of effort involving all call centers. One suggestion to solve the duplication of effort problem is a shared database allowing the one call centers to function as one. This would require government forced sharing of proprietary information and private technology.
3. Current law does not assign one geographic region for each notification center. Thus each center has statewide responsibility, their own phone number, their own mapping technology, and must share information with each other for every call, regardless of what part of the state the dig is in.
4. Dividing the state into One Call regions, each served by one center, is the way to establish a system that works without doing harm. It is practical to do and easy to implement using Texas Department of Transportation’s districts.

Texas Excavation Safety Systems (non-profit) submitted reasons for not dividing the state into regions:

1. They believe that the current competitive market of the “call before you dig system” in Texas works. This is where every facility owner has the option to belong to any notification center and every excavator has the option to call any center.
2. They believe that the divided state would guarantee a monopoly on the membership and the calls.
3. They also agree with the One Call Board of Texas’ recommendations for bringing Texas legislation more into compliance with the findings of the national One Call Best Practices Study. They are as follows:
 - A. Requiring facility owners to provide “positive response” to the excavator - either to provide a field locate of facilities in the construction area or a response that no locate is necessary.
 - B. Allowing the excavator to begin excavating with due care if facility owners have failed to respond by the end of two working days from initial notification.
 - C. Establishing a “tolerance zone” of 18 inches on either side of a marked facility.
 - D. Establishing a “ticket life” of 30 calendar days after notice is given unless locate marks are removed or are no longer visible.
 - E. Limiting the right of a non-member facility owner to recover cost of damage from an excavator who called a notification center prior to excavation.
 - F. Establishing an equitable and meaningful penalty and fine structure to promote safety training and education and to deter habitual and flagrant violators.

The committee held a public hearing in Brownwood, Texas on May 21, 2000, to allow the public the opportunity to testify on the issue. The following people testified before the committee:

<u>Name</u>	<u>Representing</u>	<u>Stance</u>
Jim Allison	County Judges and Commissioners Association	On
Rick Grundman	Southern Union Gas	On
Don Heine	TXU Electric and Gas	On
Tom Hoff	One Call Concepts	On
Rene's Kelley	Self and B&W Utilities	On
Richard Kirby	Texas Department of Transportation	On
Steve Landon	One Call Board of Texas	On
Lee Marrs	Texas Excavation Safety Systems	On
Michael McNamara	Texas One Call / One Call Systems	On
Howard Pebley	One Call Board of Texas	On
Ed Small	Texas and Southwest Cattleraisers Association	On
Donald Ward	One Call Board of Texas	On

CONCLUSION

The committee determined that a free market is always good, and we should have the option to chose which service we would like to use. On the other hand, the committee has a real problem with a non-profit corporation competing for business with a for-profit corporation. At this time, the committee does not know which preference is best for the State of Texas.

RECOMMENDATION

1. The committee believes that the current non-regional system should be re-evaluated next session. We need to decide which option is best for the State of Texas. The pros and cons are equal, and more research is needed.
2. The committee believes that establishing a "ticket life" of 30 calendar days after notice is given should not be considered as standard practice.
3. The committee believes that we should amend the statute to eliminate the \$50 annual Registration fee for Class A facilities (Sec.251.062) and allow the Board to set the fee for notification centers at not more than \$.10 per incoming call rather that the current \$.01. (Sec.251.106). The \$50 fee is collected by the Board and costs more in time and effort than it generates. The notification centers would administer the charge per call and remit to the Board. Audit authority is already in the statute.

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4. Amend the statute to define “Legal Holiday” as one of the six holidays listed in the TXDOT regulations:
 - January 1
 - Memorial Day
 - July 4
 - Labor Day
 - Thanksgiving Day
 - Christmas Day
 5. Amend the statute to provide for positive response by the facility owner/operator to let the excavator know if there are lines in the area or not.
 6. Amend Sec.251.301 to ensure that penalties are equitably administered among excavator, facility owner/operators and notification centers and that fines are meaningful and designed to provide incentive to promote safety training and education as well as deterring habitual or flagrant violators.
 7. Amend the statute to recognize the right of all parties to recover damages and costs resulting from non-compliance.

**EVALUATION OF THE USE OF SOCIAL SECURITY
NUMBERS TO OBTAIN A DRIVER'S LICENSE**

CHARGE: Study all issues surrounding the use of social security numbers to obtain a driver's license. The study should consider federal laws and rules as well as issues related to privacy and identity theft.

BACKGROUND

The purpose for the collection of social security numbers by the Department of Public Safety during the driver licensing process is twofold. First, the Department is required by Texas law to collect the social security number of all driver license applicants for child support enforcement purposes. Secondly, the Department uses the social security number of the applicants for identification purposes as authorized by federal law.

The collection of social security numbers by the Department of Public Safety became mandatory with the passage of House Bill 433 during the 74th Legislative session. The purpose of the bill, which is codified in the Texas Family Code at §231.302, is to assist in the administration of laws relating to child support enforcement under Parts A and D of Title IV of the Federal Social Security Act (42 U.S.C. Sections 601-617 and 651-669).²

The Federal law reads as follows: 42 USC 405 (c)(2)(C)(I) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law with its jurisdiction, utilize the social security account number issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, social security account number (or numbers, if he or she has more than one such number) issued to him or her by the Commissioner of Social Security.

ANALYSIS

Given the current state of federal law, there is little that the Texas Legislature can do to eliminate the use of social security number by licensing agencies (short of drafting a House Concurrent Resolution beseeching Congress to eliminate the use of the social security number for purposes other than the administration of the social security program). However, use of the number for other governmental purposes and by the private sector can be eliminated or significantly curtailed.

AUGUST 29, 2000 PUBLIC HEARING

The committee held a public hearing in Big Spring, Texas on August 29, 2000, to allow the public the opportunity to testify on the issue. The following people testified before the committee:

<u>Name</u>	<u>Representing</u>	<u>Stance</u>
Bobby Holt	Texas Department of Public Safety	On
Rebecca Blewett	Texas Department of Public Safety	On
George Bruder	Database Technologies Inc.	On
Angela Gaule	Self and Mother Against Drunk Drivers	On
Kevin Napier	Texas Department of Public Safety	On

CONCLUSION

Privacy is fast becoming a major issue within our state. With the increase of data transfer through the use of computers, we find ourselves defending our personal information. The committee has received hundreds of complaints from constituents all across the state in regard to surrendering their social security number to obtain a Texas driver's license. We need to make sure that the public knows why the social security number is obtained, and we need to make sure they understand that this information will not be sold to the general public.

RECOMMENDATIONS FOR GOVERNMENTAL USE

1. Prohibit the collection of social security numbers by governmental agencies for any purpose other than those required by federal law.
2. Prohibit the sale or disclosure of social security numbers by state agencies to private entities.
3. Require state agencies required by federal law to collect social security numbers to provide individuals with a citation to the federal statute requiring the disclosure and an explanation of the purpose for which the number will be used.

RECOMMENDATIONS FOR THE PRIVATE SECTOR

1. Prohibit businesses from refusing to provide a good or service to an individual because the individual refuses to provide a social security number that is not required by law.

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2. Require the business requesting the social security number to inform the individual whether furnishing the number is voluntary or mandatory under law, and if mandatory, the business shall provide to the individual the citation to the law and the purpose for which the number is to be used.
 3. Provide civil penalties for businesses that refuse to comply with the aforementioned directives.
 4. Prohibit any business required by federal law to collect social security numbers from disclosing the numbers to third parties and provide civil penalties for failure to comply.

**EVALUATION OF THE MANNER IN WHICH DRIVER'S
LICENSE INFORMATION IS MADE AVAILABLE FOR
PUBLIC SAFETY AND COMMERCIAL PURPOSES**

CHARGE: Review the manner in which driver's license information, including arrests, convictions and other personal information, is made available for public safety and commercial purposes. The review should consider the parties who may obtain such information, the security information, and the extent to which the system meets the needs of the requested parties.

BACKGROUND

Statute for providing driving records Chapter 521.045 - 521.049.

Allows disclosure of certain driver record information, accident and conviction information.

521.045. Disclosure of certain information relating to an individual operator. On receipt of a written request and payment of a \$4.00 fee, the department may disclose information relating to an individual's date of birth, current license status, and most recent address, as shown in the department's records, to a person who: (1) is eligible to receive the information under Chapter 730; and (2) submits to the department the individual's driver's license number or the individual's full name and date of birth.

521.046. Disclosure of accident and conviction information. (a) In addition to the information authorized to be released under Section 521.045, on receipt of a written request and payment of a \$6.00 fee, the department may disclose that information and information regarding each reported motor vehicle moving violation, as defined by department rule, resulting in a traffic law conviction and each motor vehicle accident in which the individual received a citation, by date and location, within the three years receding the date of the request, to a person who: (1) is eligible to receive the information under Chapter 730; and (2) submits to the department the individual's driver's license number or the individual's full name and date of birth. (b) If the department receives requests for information under this section in quantities of 100 or more from a single person at one time and on data processing request forms acceptable to the department, the department may reduce the fee to \$5.00 for each individual request.

521.047. Disclosure of information to license holder. (a) The department may disclose information relating to a license holder to that license holder on receipt of a written request that includes the individual's driver's license number or the individual's full name and date of birth, and payment of a \$7.00 fee. (b) The department may disclose information as recorded in department records that relate to: (1) the individual's date of birth; (2) the current license status of the individual; (3) the individual's most recent address; (4) the completion of an approved driver education course by the individual; (5) the fact of, but not the reason for, completion of a driver safety course by the individual; and (6) each of the individual's reported traffic law violations and motor vehicle accidents, by date and location.

521.048. Certified information. The department may disclose information under Section 521.046 or 521.047 that is certified by the custodian of records on payment of a \$10 fee for each individual request.

521.049. Information supplied to certain governmental entities. (a) The department shall disclose information relating to the name, date of birth, and most recent address as shown in department records to the Texas Department of Health during an emergency or epidemic declared by the Commissioner of

Health to notify individuals of the need to receive certain immunizations. (b) The department may not charge a fee for information disclosed to a law enforcement agency or other governmental agency for an official purpose, except that the department may charge its regular fees for information provided to those governmental agencies in bulk for research projects. (c) The department may make information from driver's license record files, including class-type listings, available to an official of the United States, the state, or a political subdivision of this state for government purposes only.

Statute for providing certified abstract records Chapter 601.022.
Allows disclosure of the complete operating record of an individual.

601.022 Department to provide operating record. (a) The department, on request and receipt of the required fee, shall provide any person a certified abstract of the record of convictions of a person subject to this chapter for violation of a law relating to the operation of a motor vehicle or the record of any injury or damage caused by the person's operation of a motor vehicle if the requester is eligible to receive the information under Chapter 730. (b) If a record described by Subsection (a) does not exist, the department shall certify that fact. (c) A request for a certified abstract under this section must be accompanied by a \$20 fee for each abstract.

Statute for providing sale of driver license information (entire file) and weekly updates Chapter 521.050 - 521-051. Fee for sale of Entire File - Administrative Rules 1.122.
Allows the sale of driver's license information and the cost for the information.

521.050. Sale of license information. (a) In addition to the provisions of this subchapter relating to the disclosure of driver's license information on an individual, the department may provide a purchaser with a magnetic tape of the names, addresses, and dates of birth of all license holders that are contained in the department's basic driver's license record file if the purchaser certifies in writing, that the purchaser is eligible to receive the information under Chapter 730. (b) A magnetic tape provided under this section may contain only the names, addresses, and dates of birth of individuals who have not prohibited the disclosure of personal information relating to those individuals under section 521.052 and Chapter 730. (c) The department may also periodically provide to the purchaser of the information any addition to that file. (d) Before the department may provide information under Subsection (a), the purchaser must agree to delete the name, address, and date of birth of an individual whose name is also included on the name of an individual who has requested that the individual's name not be made available for solicitation purposes.

521.051. Disclosure of certain information prohibited. The department may not disclose class-type listings from the basic driver's license record file to any person except as provided by Section listings from the basic driver's license record file to any person except as provided by Section 521.049(c), regardless of whether the requester is eligible to receive the information under Chapter 730.

Administrative Rule 1.122. Driver Records Bureau Fees. (a) Requests for class type listings of names, address, and date of birth from Texas driver's license records requiring special programming and search of more than 11 million files will not be authorized by the department for any person or business;

however such information will be available to an official of the federal government, the state, a city, town, county, special district, or other political subdivision for official governmental purposes only. (b) A copy of the complete basic record back-up tape will be furnished for \$1,600. This is raw data with no programming by the department. Record layout will be furnished in order that the data may be interpreted. Updates will be furnished for \$57 per week. (c) Before the department may release the information requested in subsection (b) of this section, the purchaser must agree to delete the name, address, and date of birth of any person whose name is also included on the mail or telephone preference list maintained by a recognized trade association which is used to remove the name of any individual who has requested that the individual's name not be made available for solicitation purposes, they should contact such recognized trade associations to be included on such associations' mail/preference list.

Statute concerning privacy Chapter 730.006 - 730.008

Chapter 730.006 Required disclosure with consent. (a) Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed to a requester who demonstrates, in such form and manner as the agency requires, that the requester has obtained the written consent of the person who is the subject of the information.

Chapter 730.007. Permitted disclosures (a) Personal information obtained by an agency in connection with a motor vehicle record may be disclosed to any requestor by an agency if the requester:

(1) provides the requestor's name and address and any proof of that information required by the agency; and (2) represents that the use of the personal information will be strictly limited to:

(A) use by: (i) a government agency, including any court or law enforcement agency, in carrying out the function of the agency;

(B) use in conjunction with a matter of: (i) motor vehicle safety; (ii) motor vehicle theft; (iii) motor vehicle product alterations, recalls, or advisories; (iv) performance monitoring of motor vehicles, motor vehicle parts, or motor vehicle dealers; (v) motor vehicle market research activities, including survey search; or (iv) removal of nonowner records from the original owner records of motor vehicle manufacturers;

(C) use in the normal course of business by a legitimate business or an agent, employee, or contractor of the business, but only: (i) to verify the accuracy of personal information submitted by the individual to the business or an agent, employee, or contractor of the business; and (ii) if the information as submitted is not correct or is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by, pursuing a legal remedy against, or recovering on a debt or security interest against the individual;

(D) use in conjunction with a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, execution of enforcement by judgement or order, or under an order of any court;

(E) use in research or in producing statistical reports, but only if the personal information is not published, re-disclosed, or used to contact any individual;

(F) use by an insurer or insurance support organization, or by self-insured entity, or an agent, employee, or contractor of the entity, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(G) use in providing notice to an owner of a towed or impounded vehicle;

(H) use by a licensed private investigator agency or license security service for a purpose permitted under this section;

(I) use by an employer or an agent or insurer of the employer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S.C Chapter 313;

(J) use in connection with the operation of a private toll transportation facility;

(K) use of bulk distribution for surveys, marketing, or solicitation, but only if the agency has implemented procedures to insure that: (i) persons are provided an opportunity, in a clear and conspicuous manner, to opt out and prohibit those uses; and (ii) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, or solicitations, and that surveys, marketing, or solicitation will not be directed at any individual who has timely requested that the material not be directed at the individual; and

(L) use for any other purpose specifically authorized by law that relates to the operation of a motor vehicle or to public safety.

The only personal information an agency may release under this section is the individual's:

(1) name and address, (2) date of birth; and (3) driver's license number.

Chapter 730.008. Disclosure of Individual Record. (a) Personal information obtained by an agency in connection with a motor vehicle record that is contained in an individual record may be disclosed to requestor without regard to intended use if the Department of Public Safety has:

(1) provided, in a clear and conspicuous manner on forms for issuance or renewal of an operator's or driver's license, registration, title, or identification document, notice that personal information collected by the Texas Department of Public Safety may be disclosed to any person making a request for an individual record, and

(2) provided in a clear and conspicuous manner on that form an opportunity for each person who is the subject of the record to prohibit that disclosure.

(b) An agency may include the notice described by Subsection (a) (1) on forms used by members of the general public.

Statute for providing National Driver Register checks Chapter 521-056

Allows for the department to process file checks under the National Driver Register.

521.056. National Driver Register. (a) The department may process file check requests under the National Driver Register on behalf of current or prospective employers of individuals employed or seeking employment as operators of motor vehicles or railway locomotive operators if the individual; (1) has given written consent to the release of the information; and (2) has a license in this state. (b) The fee for a request under Subsection (a) is \$4. (c) The department shall forward a request made under Subsection (a) directly to the current or prospective employer. (d) The department shall assist and provide procedures for an individual to obtain information from the National Driver Register on the individual's own driving record. The Department may by rule establish a reasonable fee for this service, in conformity with the policies of the National Driver Register. (e) The department may adopt forms and rules as necessary to carry out the purposes of this section and comply with the policies of the National Driver Register.

AUGUST 29, 2000 PUBLIC HEARING

The committee held a public hearing in Big Spring, Texas on August 29, 2000, to allow the public the opportunity to testify on the issue. The following people testified before the committee:

<u>Name</u>	<u>Representing</u>	<u>Stance</u>
Bobby Holt	Texas Department of Public Safety	On
Rebecca Blewett	Texas Department of Public Safety	On
George Bruder	Database Technologies Inc.	On
Kevin Napier	Texas Department of Public Safety	On

CONCLUSION

The committee's main concern with the transfer of personal information from state agencies is the second parties selling or sharing the information to the third party. There are no repercussions for this type of transaction. This process is not monitored, and private information is being released for surveys, marketing, and solicitation.

RECOMMENDATIONS

1. The committee believes that Chapter 730.007(a)(1)(C), in the Transportation Code, should be removed.
2. The committee believes that Chapter 730.007(a)(1)(E), in the Transportation Code, should be amended to state that personal identification be removed from the lists used for research and producing statistical reports.
3. The committee believes that Chapter 730.007(a)(1)(K), in the Transportation Code, should be removed because this is where third parties circumvent the law to obtain personal information.
4. The committee believes that Chapter 730.007(a)(1-L), in the Transportation code, should be removed.
5. The committee believes that a Class A Misdemeanor should be imposed if personal information is disclosed, resold or shared to a third party unless specifically authorized under provisions of this section.

House Bill 571, 76th Legislative Session

BACKGROUND

Several years ago, the Department of Public Safety began placing magnetic strips on state issued drivers' licenses and identification cards. The strip contains the individual's name, address and physical description. The Department eventually hopes to equip officers with handheld ticket writing machines that can read the strip and immediately retrieve the individual's record.

During the 76th Legislature, H.B. 571 was passed to protect Texans' privacy by limiting the type of information that can be placed in the magnetic strip, limiting use of the strip to law enforcement or governmental personnel, and making unauthorized use of the strip a Class A Misdemeanor.

ANALYSIS

The limitation on the type of information placed in the strip was included in the bill out of fear that the Department of Public Safety would eventually place within the strip an individual's driving record, criminal history, and other information that because of the simplicity of the technology could be read and stored by any store clerk or other person with a magnetic strip reader.

The limitation on who could swipe the driver's license was included in an effort to prevent businesses from swiping driver's license and creating databases containing individual's personal information and buying habits, which could then be used or resold for marketing purposes without permission of the individual.

The concerns brought before the committee were twofold: (1) the bill prevents stores from gathering information from the strip and printing a check writer's driver's license number and the date of birth on the check to help in the prevention and prosecution of hot check writers; and (2), the bill prevents convenience store clerks from swiping the license of a would-be alcohol or tobacco purchaser and having the register calculate the person's age and either preventing or allowing the transaction to take place.

AUGUST 29, 2000, PUBLIC HEARING

On August 29, 2000, Big Spring, Texas, the Committee on Public Safety met for a public hearing. House Bill 571, of the 76th Legislative Session was brought before the committee. The following people testified before the committee:

<u>Name</u>	<u>Representing</u>	<u>Stance</u>
Rebecca Blewett	Texas Department of Public Safety	On
Kevin Napier	Texas Department of Public Safety	On
Angela Gaule	Self and Mothers Against Drunk Drivers	On
Jack Baker	The Bass Club Inc.	Against
Dwain James	American Collectors Association of Texas	Against

Dudley Kidwell	Instacheck System	Against
Randy Hartwick	Tavern Masters Inc.	Against
Ted Hotham	Carfax Inc.	Against

CONCLUSION

It is the opinion of the Committee that the privacy concerns behind the passage of the bill outweighs any negative consequence of prohibiting businesses from reading the magnetic strip. Software can be written that will print the date of birth and driver's license number on a check or calculate a person's age once the clerk keys in the appropriate information. Nonetheless, the Committee is more than willing to investigate the issue further during the 77th Legislative Session and sort out and correct any complications the bill has caused, perceived or real.

ENDNOTES

1. Harris County Sheriff's Department, Traffic Enforcement Division.
2. Texas Department of Public Safety web site, www.txdps.state.tx.us.