

Transaction Scan Devices

This Act enables retailers to use “electronic transaction scanning devices” to read and use information on drivers’ licenses and identification cards to help verify the age of people who buy alcohol and tobacco products. But the Act prohibits retailers from selling or otherwise disseminating such information to a third party for any purpose, including any marketing, advertising, or promotional activities.

Submitted as:

Texas

SB 1465

Status: Enacted into law in 2005.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act Relating to the Use of Certain
2 Electronically Readable Information on a Driver’s License or Identification Certificate to
3 Comply with Certain Alcohol and Tobacco Related Laws.”
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5 Section 2. [*Using Certain Electronically Readable Information.*]

6 (a) As used in this Act, “transaction scan device” means a device capable of deciphering
7 electronically readable information on a driver’s license, commercial driver’s license, or
8 identification certificate.

9 (b) A person may access electronically readable information on a driver’s license,
10 commercial driver’s license, or identification certificate for the purpose of complying with
11 [insert citation].

12 (c) The information accessed under this Act may be obtained by court order or on proper
13 request by the comptroller, a law enforcement officer, or a law enforcement agency.

14 (d) Information accessed under this Act may not be sold or otherwise disseminated to a
15 third party for any purpose, including any marketing, advertising, or promotional activities.

16 (e) A person who violates this section commits an offense. An offense under this section
17 is a [Class A misdemeanor].

18 (f) It is an affirmative defense to prosecution that:

19 (1) a transaction scan device identified a license or certificate as valid and the
20 defendant accessed the information and relied on the results in good faith; or

21 (2) if the defendant is the owner of a store in which cigarettes or tobacco products
22 are sold at retail, the offense occurs in connection with a sale by an employee of the owner, and
23 the owner had provided the employee with:

24 (i) a transaction scan device in working condition; and

25 (ii) adequate training in the use of the transaction scan device.

26 (g) It is an affirmative defense to prosecution for an offense having as an element the age
27 of a person, that:

28 (1) a transaction scan device identified a license or certificate as valid and the
29 defendant accessed the information and relied on the results in good faith; or
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31 (2) if the defendant is the owner of a store in which alcoholic beverages are sold
32 at retail, the offense occurs in connection with a sale by an employee of the owner, and the
33 owner had provided the employee with:

- 34 (i) a transaction scan device in working condition; and
- 35 (ii) adequate training in the use of the transaction scan device.

36 (h) This Act does not apply to:

37 (1) an officer or employee of a department who accesses or uses the information
38 obtained under this Act for law enforcement or government purposes;

39 (2) a peace officer, as defined by [insert citation] acting in the officer's official
40 capacity;

41 (3) a licensed deputy, as defined by [insert citation], issuing a license, stamp, tag,
42 permit, or other similar item through use of a point-of-sale system under [insert citation]; or

43 (4) a person acting as authorized by [insert citation],

44 (5) a person who accesses electronically readable information under [insert
45 citation] that identifies a driver's license or identification certificate as invalid.

46 (i) This Act applies only to an offense committed on or after the effective date of this Act.

47 (j) An offense committed before the effective date of this Act is covered by the law in
48 effect when the offense was committed, and the former law is continued in effect for that
49 purpose.

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51 Section 3. [*Severability.*] [Insert severability clause.]

52
53 Section 4. [*Repealer.*] [Insert repealer clause.]

54
55 Section 5. [*Effective Date.*] [Insert effective date.]