

1-1 By: Goldman (Senate Sponsor - Miles) H.B. No. 2399
1-2 (In the Senate - Received from the House April 29, 2019;
1-3 April 29, 2019, read first time and referred to Committee on
1-4 Business & Commerce; May 20, 2019, reported favorably by the
1-5 following vote: Yeas 8, Nays 0; May 20, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the use of a biometric identity verification device to
1-20 verify the age of an individual purchasing an alcoholic beverage.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 1.04, Alcoholic Beverage Code, is
1-23 amended by adding Subdivision (29) to read as follows:

1-24 (29) "Biometric identity verification device" means a
1-25 device that instantly verifies the identity and age of a person by:

1-26 (A) taking an electronic scan of a biometric
1-27 identifier of the person, including a scan of a fingerprint, an
1-28 iris, the face, or another biometric identifier; and

1-29 (B) referencing the scan of the identifier
1-30 against a record of biometric identifiers associated with
1-31 government-issued identification documents where:

1-32 (i) the authenticity of the record was
1-33 previously verified by an electronic authentication process;

1-34 (ii) the identity of and information about
1-35 the record holder was previously verified through a secondary
1-36 electronic authentication process or process using commercially
1-37 available data such as a public records query or a knowledge-based
1-38 authentication quiz; and

1-39 (iii) the authenticated record is securely
1-40 linked to biometric identifiers contemporaneously collected from
1-41 the verified record holder and stored in a central, highly secured,
1-42 encrypted biometric identifier database.

1-43 SECTION 2. Section 106.03, Alcoholic Beverage Code, is
1-44 amended by amending Subsection (b) and adding Subsection (b-1) to
1-45 read as follows:

1-46 (b) A person who sells a minor an alcoholic beverage does
1-47 not commit an offense if:

1-48 (1) the minor falsely represents that the minor is
1-49 ~~himself to be~~ 21 years old or older by displaying an apparently
1-50 valid proof of identification that contains a physical description
1-51 and photograph consistent with the minor's appearance, purports to
1-52 establish that the minor is 21 years of age or older, and was issued
1-53 by a governmental agency; or

1-54 (2) the person relies on a verification by a biometric
1-55 identity verification device as proof of identification and that
1-56 the minor is 21 years of age or older.

1-57 (b-1) The proof of identification under Subsection (b)(1)
1-58 may include a driver's license or identification card issued by the
1-59 Department of Public Safety, a passport, or a military
1-60 identification card.

1-61 SECTION 3. Section 106.13(c), Alcoholic Beverage Code, is

2-1 amended to read as follows:

2-2 (c) The commission or administrator may relax the
 2-3 provisions of this section concerning suspension and cancellation
 2-4 and assess a sanction the commission or administrator finds just
 2-5 under the circumstances if, at a hearing, the licensee or permittee
 2-6 establishes to the satisfaction of the commission or administrator:

2-7 (1) that the violation could not reasonably have been
 2-8 prevented by the permittee or licensee by the exercise of due
 2-9 diligence;

2-10 (2) that the permittee or licensee was entrapped; [~~or~~]

2-11 (3) that an agent, servant, or employee of the
 2-12 permittee or licensee violated this code without the knowledge of
 2-13 the permittee or licensee; or

2-14 (4) that the permittee or licensee or an agent,
 2-15 servant, or employee of the permittee or licensee relied on a
 2-16 biometric identity verification device to verify the individual's
 2-17 age.

2-18 SECTION 4. Sections 109.61(a), (b-1), (e), and (f),
 2-19 Alcoholic Beverage Code, are amended to read as follows:

2-20 (a) A person may access electronically readable information
 2-21 on a driver's license, commercial driver's license, or
 2-22 identification certificate or provided through a biometric
 2-23 identity verification device for the purpose of complying with this
 2-24 code or a rule of the commission, including for the purpose of
 2-25 preventing the person from committing an offense under this code.

2-26 (b-1) Information retained may be printed to hard copy with
 2-27 a time and date confirmation from the transaction scan device or
 2-28 biometric identity verification device or transferred to an
 2-29 electronic encrypted data storage or electronic record. After
 2-30 printing or transferring data, the transaction scan device or
 2-31 biometric identity verification device may clear the scanned
 2-32 information from the device or any memory in the device. The
 2-33 commission by rule may set further requirements for the retention
 2-34 of information under this subsection.

2-35 (e) It is an affirmative defense to prosecution under this
 2-36 code, for an offense having as an element the age of a person, that:

2-37 (1) a transaction scan device identified the license
 2-38 or certificate of the purchaser as valid and that the person is over
 2-39 21, or a biometric identity verification device verified that the
 2-40 person is 21 years of age or older, and the defendant accessed the
 2-41 information and relied on the results in good faith; or

2-42 (2) if the defendant is the owner of a store in which
 2-43 alcoholic beverages are sold at retail, the offense occurs in
 2-44 connection with a sale by an employee of the owner, and the owner
 2-45 had provided the employee with:

2-46 (A) a transaction scan device or biometric
 2-47 identity verification device in working condition;

2-48 (B) adequate training in the use of the
 2-49 transaction scan device or biometric identity verification device;
 2-50 and

2-51 (C) the defendant did not directly or indirectly
 2-52 encourage the employee to violate the law.

2-53 (f) The defense offered in Subsection (e) applies [~~does not~~
 2-54 ~~apply~~] in actions to cancel, deny, or suspend the license or permit,
 2-55 except as provided by rules adopted by the commission under Section
 2-56 5.31.

2-57 SECTION 5. The changes in law made by this Act apply only to
 2-58 an offense committed on or after the effective date of this Act. An
 2-59 offense committed before the effective date of this Act is governed
 2-60 by the law in effect on the date the offense was committed, and the
 2-61 former law is continued in effect for that purpose. For purposes of
 2-62 this section, an offense was committed before the effective date of
 2-63 this Act if any element of the offense was committed before that
 2-64 date.

2-65 SECTION 6. This Act takes effect September 1, 2019.

2-66 * * * * *