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HOUSE BILL NO. 1424

House Amendments in [] — February 10, 2004

A BILL to amend and reenact §§ 59.1-443 and 59.1-444 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-443.1, relating to date of birth on checks.

Patron Prior to Engrossment—Delegate Dudley

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-443 and 59.1-444 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 59.1-443.1 as follows:

§ 59.1-443. Exceptions.

This chapter Section 59.1-442 shall not apply to: (i) information gathered for purposes of extending credit or the recording and sale, rental, exchange or disclosure to others of information obtained from any public body as defined in the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (ii) the sale of information concerning a check or credit card transaction when it is incidental to the sale or other disposition of accounts receivable; (iii) the furnishing by a merchant of information on check writing activity of its customers in conjunction with check validation transactions; or (iv) information sold in connection with any sale by a business of the business's retail operations at one or more locations, provided that the information is sold only to the purchasers thereof.

§ 59.1-443.1. Recording date of birth as condition of accepting checks prohibited.

A. As used in this section:

1. "Check" shall have the same meaning as defined in § 8.3A-104.

2. "Person" shall have the same meaning as defined in [means] § 1-13.19.

B. Except as provided in subsection C, no person who accepts checks for the transaction of business shall, as a condition of accepting the check, record, or request or require a person to record, his or her date of birth upon the check or otherwise.

C. This section does not require a person to accept checks for the transaction of business. [Nothing in this section shall apply to (i) the collection or use of a date of birth that is unrelated to accepting payment by check or (ii) a requirement that the person paying by check provide the year of his birth.]

§ 59.1-444. Damages.

Any merchant who violates the provisions of this chapter A person aggrieved by a violation of this chapter shall be liable for entitled to institute an action to recover damages in the amount of \$100, payable to the purchaser whose personal information was sold or otherwise disclosed, rented or exchanged in violation of this chapter per violation. In addition, such purchaser if the aggrieved party prevails, he may recover be awarded reasonable attorney's fees and court costs. Actions under this section shall be brought in the general district court for the city or county in which the transaction which or other violation that gave rise to the action occurred.

ENGROSSED

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