



From the Desk of  
Representative  
**Dan Flynn**



# The Flynn Report

*August 29, 2005*

Greetings constituents, supporters and friends:

During the 79<sup>th</sup> Texas Legislature a number of new laws were enacted that will be affecting Texans' daily lives. From prescription drug costs to privacy protections to new education initiatives, Texas consumers and their families will experience a positive impact by these new laws as they take effect. Hopefully, this list will provide you with a listing of most of the new laws passed by the Texas Legislature set to go into effect beginning September 1, 2005 (unless otherwise noted).

## LEGISLATIVE PROTECTION FOR TEXAS CONSUMERS

**House Bill 836 (Gattis/Ogden)** Pharmacists must now offer a patient the choice of paying the actual price of the prescription - instead of the insurance co-payment amount - if the cost of the actual prescription is lower than the insurance co-payment amount.

**House Bill 853 (Solomons/Harris)** When returning merchandise, the law prohibits the collection of identifying information such as a social security number so that a retailer – or national database - cannot compile or track returns of your purchases and merchandise.

**House Bill 1357 (Flores/Seliger)** Lengthens the driver's license suspension period for minors convicted of underage drinking, and adds the suspension of a driver's license to include a fine up to \$2000 and/or up to one year in jail. In addition, the law will suspend a driver's license for any adult that gives alcohol to a minor.

**House Bill 2868 (Frost/Hinojosa)** Makes an adult civilly liable for the actions or damages of a minor he or she has served the minor any amount of alcoholic beverages.

**Senate Bill 411(Whitmire/Hamric)** Consolidates regulatory agencies and creates stronger sanitation requirements for licensed barbers, cosmetologists and salons. Portions of this legislation go into effect Jan. 1, 2006.

**Senate Bill 327 (Zaffirini/McCall)** Prohibits the unauthorized installation or use of spyware, which is computer software used to change a person's computer settings and obtain personal information.

## **IDENTITY THEFT**

**Identity theft has become a major problem in our electronic age. Identity theft is the fastest growing crime in the country. Texas ranks second in the total number of identity thefts, behind only California. Victims of identity theft spend an average of 600 hours over several years to clear their names. The cost to consumers is over \$5 billion in one year alone.**

**House Bill 1130 (Cook/Ellis)** Prohibits a person from requiring the disclosure of their social security number to obtain goods or services unless the business has a privacy policy and maintains the confidentiality of that social security number.

**Senate Bill 99 (Ellis/Giddings)** Many victims of identity theft find problems later on when they attempt to get a loan or open a new credit card or checking account. S.B. 99 allows victims of identity theft to fix their credit histories and prohibits a lender from limiting the credit extended to a person who has been a victim of identity theft.

**Senate Bill 122 (Hinojosa/Giddings)** Requires businesses to report a problem or breach in their security. It also gives the Attorney General increased authority to go after bad actors and establishes both civil and criminal penalties for offenders.

**Senate Bill 1485 (Williams/Wong)** Ensures our privacy is protected when a governmental entity releases information under the public information act. The new law allows governments to block out a person's social security number in order to protect a person's privacy and keep an individual's social security number from inadvertently being released to the public.

Another fraudulent practice intended to trick recipients into providing personal information, social security information, credit card numbers, passwords and usernames is called “Phishing”. The practice dupes Texas consumers and is a major problem in conning Texans into providing personal information, often resulting in fraud and/or identity theft.

The “Anti-Phishing Act” (House Bill 1098 by McCall/Zaffirini) prohibits a person from sending web pages or emails to make false representations to fraudulently obtain someone’s personal information. Offenders can find themselves facing a civil action as well as financial damages.

And although the rate of Internet-related identity theft scams are on the rise, 68 percent of identity theft crimes still occur by traditional means, such as paper records. House Bill 698 (McCall/Averitt) creates a new Texas law to require businesses to destroy or modify business records containing personal identifying information - or pay a \$500 fine.

## **EDUCATION INITIATIVES**

**House Bill 492 (Woolley/Shapleigh)** Requires that high school students be taught personal financial skills as a requirement of graduation. This will help ensure they are ready to handle their finances in their next step in life, whether that is college or a career.

**Senate Bill 151 (Zaffirini/Morrison)** Provides a financial incentive for educationally disadvantaged students to enroll in junior college courses for dual credit with high schools, by paying the cost of tuition, fees, and textbooks for those courses.

## **CHILD PROTECTIONS**

**House Bill 2228 (McCall/Ellis)** Toughens the current law of online sexual solicitation of a minor, to include an offender even if the offender does not actually meet the child. The punishment ranges from a state jail felony with a minimum 180 days in jail, to a third degree felony with a minimum sentence of 5 years, depending on the age of the child, and if there was an intent to meet the child.

**House Bill 308 (Hope/Staples)** If a student is the victim of sexual assault by another student at the same school; the parent may request that the offender be transferred to a different school. **House Bill 1316 (Zedler/Deuell)** Adds a requirement for children going into day care to receive vaccinations for Hepatitis A and Pneumococcal disease, in order to keep all children safe and healthy.

## **SUPPORTING OUR TROOPS**

**In our post-September 11<sup>th</sup> world more and more military families are finding challenges in their daily lives. The 79<sup>th</sup> Legislative Session produced many bills that reduce costs on members of the military and provide support for their family members.**

**House Bill 25 (Delisi/Van de Putte)** Asks the Texas Education Agency (TEA) to ease the burden on military children in schools. The new law requires school districts to transfer school records within 10 days of the requests and provides for alternate assessment methods to ensure students who enroll late in a school can graduate on time.

**House Bill 685 (Rose/Van de Putte)** Allows military personnel to obtain a concealed handgun license without taking the proficiency portion of the concealed handgun course, as long as the person has had military handgun training within the last 5 years.

**House Bill 503 (Guillen/Fraser)** Adds Veterans in the war on terror and Iraq to the military exemption from paying tuition and fees.

**Senate Bill 212 (Shapleigh/Noriega)** Requires the Texas Workforce Commission to provide employment-assistance services to a spouse or dependant of an active member of the military.

**Senate Bill 143 (Wentworth/ McClendon)** Extends the deadline for continuing education and renewal of a license for active duty members of the military, by the amount of time they have been active.

**Senate Bill 1186(Nelson/Guillen)** Ensures that a member of the military has the right to terminate a lease contract with their landlord.

**Senate Bill 1342(Van de Putte/ Campbell)** Allows spouses of military personnel to be eligible for unemployment insurance if they voluntarily quit their job to move where their spouse is stationed.

## **CREDIT CARD SKIMMING**

**Credit card “skimming” has become a growing trend in retail places, such as when a waiter or bartender swipes credit cards to pay a customer’s bill. Skimming occurs when a credit card is also swiped into an electronic device, allowing the stolen data and credit card’s number to be used to create counterfeit cards. The practice currently comes with a penalty of two years in jail.**

**House Bill 982 (Reyna/ Van de Putte)** Requires restaurants and bars to post a sign warning their employees of the illegality and penalty of the practice.

**DID YOU KNOW?** A recent Congressional amendment to the **Fair Credit Reporting Act** requires each nationwide consumer reporting companies to provide you with a free copy of your credit report, at your request. This has been available in Texas since June, but must be available nationwide beginning September 1, 2005.

**The Federal Trace Commission (FTC) can provide additional information.** You can order your free annual credit report online at [www.annualcreditreport.com](http://www.annualcreditreport.com), or by calling 877-322-8228. When you order, you need to provide your name, address, Social Security number, and date of birth. To verify your identity, you may need to provide some information that only you would know, like the amount of your monthly mortgage payment. *Please note there is a charge for any additional financial information you request other than a credit report*

## CONSUMER PROTECTION

**The Legislature passed some tough new laws to ensure gift card and consumer rebate protections.**

**House Bill 511 (Hochberg/ Van de Putte)** Customer rebates have long been a popular incentive to save money on purchases. And while most work well, some rebates don't arrive in a timely manner, and some companies never respond, shortchanging consumers. Texas law had previously been silent on the issue. Now, **H.B. 511** will go into effect, which requires a company to mail the rebate or pay the consumer within the promised period of time for receiving a rebate. If no timeline exists, it must be paid in 30 days. With rebates sometimes being two-thirds of the original price, a large purchase such as a computer can result in the savings of hundreds of dollars.

**Senate Bill 446 (Carona/ Martinez)** Gift cards have gained popularity over recent years. However, some consumers have found that they are not getting the full value of the gift card purchase, either because of an early expiration date or additional fees. This new law ensures customers will receive the full value of gift card purchases.

**House Bill 1833 (Chisum/Seliger)** "Consumer contracts" are increasingly popular, particularly when they arrive in the form of a check. Unfortunately, this "check" triggers a contract to purchase a service. This new law requires that mailing an individual a check or draft payable to the individual must: (1) include specific disclosures on the face of the check; and (2) send notice two weeks before debiting any account.

### **MORE PRIVACY PROTECTIONS**

**House Bill 210 (Solomons/Shapleigh)** Combines the telemarketer no-call list for Texas and the nation, so that registration in one will list a name in both lists, with a three year renewal period.

**House Bill 2553 (McCall/Gallegos)** Prohibits a mobile phone provider in Texas from publishing a customer's name and phone number in a directory without the customer's express consent.

## AUTOMOTIVE INCENTIVES AND DRIVING SAFETY

**Senate Bill 359(Harris/Solomons)** Requires that a rental company include a notice with the rental contract stating that a personal auto insurance policy may

not cover the cost of damage to the rental car. A damage waiver purchased from the rental company may be necessary to fully cover it.

**House Bill 809 (Hilderbran/Staples)** Exempts a person's vehicle from business personal property taxes if the vehicle is used for both personal reasons and production of income.

**House Bill 1481(Gattis/Wentworth)** Not heeding a warning sign or driving around a barricade that was placed because of a water hazard is now a class B misdemeanor. A violation is a penalty of up to six months in jail and allows for a judge to order restitution.

**Senate Bill 1257 (Lindsay/Callegari)** Prohibits the use of wireless devices by drivers under the age of 18, in the first six months after receiving a license, or by a driver of a passenger bus.

### TIRED OF WAITING IN LINE?

If you want to renew your driver's license or change your address; registrar or renew your vehicle registration; renew an occupational or professional license; you can even register to vote on line.

You can now do all of this on TexasOnline, the State of Texas' Online site to make government more accessible. The State of Texas is bringing many government services online to better serve residents and businesses. Through TexasOnline, Texas government is now accessible 24 hours a day, 7 days a week.

<http://www.texasonline.com/>

### HOMEOWNER PROTECTIONS

**You now have a remedy without hiring a lawyer to deal with local Appraisal Districts if there is an Appraisal of your home above its market value.**

**House Bill 182 (Mowery/Janek) and Senate Bill 1351 (Williams/Hill)** Provides for an impartial method to solve a dispute over a property tax appraisal. Under the new law, if a landowner disagrees with the appraisal board's decision, the owner can request a binding arbitration process by making a request with the appraisal district after you have the order from the Appraisal Review Board. The

Comptroller's office will appoint an impartial arbitrator if you and the appraisal district cannot agree on the arbitrator. A deposit of \$500 is required and the fee is ultimately paid based on the loser paying the other sides' fee. The arbitrator's decision is binding, and cannot be appealed. The process provides protection to homeowners to ensure fairness in appraisals. The arbitration process will be available for the 2006 appraisals.

## **GOOD GOVERNMENT CHANGES**

**House Bill 178 (Denny/Averitt)** authorizes election officials to swipe a driver's license to electronically retrieve the name and address from the card when voting, if the voter chooses to use that form of identification. This act helps ensure protections against voter fraud.

**Senate Bill 567 (Deuell/Keffer)** Specifies that a notice of a public hearing on taxes must contain large print, provide a clear statement that taxes may increase as a result of the hearing, and include budgets and appraisal values for the current and previous year.

**Senate Bill 481 (Wentworth/Keel)** Makes the act of intentionally recording a movie in a theater a class A misdemeanor on first conviction, with up to one year in jail and up to two and ten years in jail as a felony after the second and third conviction.

**If you would like to know more about the details of any of the bills listed you can find additional information by going to [www.capitol.state.tx.us](http://www.capitol.state.tx.us).**

My staff and I welcome your input and your questions. You can reach us in our office located in the Capitol extension: E1.324. Mailing address: **P. O. Box 2910, Austin, TX, 78768**-phone number **512-463-0880**. **Canton District office** is located in The American National Bank Building in Canton on Highway 243: **P. O. Box 999, Canton, TX, 75103** phone number **903-567-0921**. **Greenville District office** is located in The Paul Mathews Exchange Building, Suite 802, 2500 Stonewall, Greenville phone number **903-455-0971**.

Email: **[dan.flynn@house.state.tx.us](mailto:dan.flynn@house.state.tx.us)**.

God bless you and God bless Texas,

Dan Flynn  
State Representative, District - 2