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SUBJECT: Requiring the display of state-issued license or certificate numbers

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 9 ayes — Deshotel, Elkins, Christian, England, Gattis, Keffer, S. Miller, Orr, Quintanilla

0 nays

2 absent — Giddings, S. Turner

WITNESSES: For — None

Against — Lee Loftis, Independent Insurance Agents of Texas

On — Paul Carmona, Lauren Donder, Office of the Attorney General

BACKGROUND: Occupations Code, Title 2 contains provisions related to licensing, including the establishment of the Texas Department of Licensing and Regulation and provisions regarding the sale and transfer of licenses.

DIGEST: HB 972 would require any state regulatory agency that licenses or certifies individuals who regularly solicit business in consumers' homes to adopt rules requiring each of those individuals to display prominently the individual's license or certificate of registration number on any document, advertisement, business card, or logo provided as part of an effort to solicit business.

The bill would apply to any advertisement delivered at a consumer's home, in person, over a telephone, through a salesperson, or through written communication delivered by mail, e-mail, or otherwise, for the purpose of entering into a service agreement or service contract or to close a sale. State regulatory agencies would have until December 1, 2009, to adopt the necessary rules, and individuals would be required to include their license or certificate number on documents provided to the public beginning on January 1, 2010.

An exemption would be provided for individuals employed by or acting on behalf of an entity that is licensed or certified by the Public Utility

Commission, and for any entity controlling, controlled by, or under the same common control as an entity licensed or certified by the Public Utility Commission.

Individuals who failed to display their license or certification number or presented an expired or counterfeit license, license number, certificate, or certificate number would be fined not more than \$1,000 for each violation. The penalty would be based on the seriousness of the violation, any history of previous violations, the amount deemed necessary to deter future violations, and any other factor deemed relevant. The state attorney general would be able to sue to collect the penalty and recover reasonable expenses incurred in obtaining the penalty, including investigation and court costs and attorney's and witness fees.

This bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 972 would ensure that seniors and other consumers have confidence that a salesperson with whom they are dealing has been properly vetted by the state. While nothing in this bill would prevent dishonest people from being able to take advantage of consumers in the future, it would give consumers assurances that the person soliciting business has been licensed or certified by the state and that there were stiff penalties for anyone who displays an expired or counterfeit license or license number.

**OPPONENTS
SAY:**

CSHB 972 would define advertising too broadly. While consumer protection is important, the bill would impose a burden on insurance agencies or other businesses that represent multiple companies and on businesses that are not based in Texas, but have agents located within the state. Requiring that every license number held by an agency be displayed on a business card or other advertisement would be impractical.

NOTES:

Rep. Quintanilla plans to offer an amendment that would restrict the advertising required to display a license or certificate number to that directed to a consumer at the consumer's home. It also would require an individual soliciting business to display the individual's license or certificate number without specifying that it be displayed on any document, advertisement, business card, or logo provided by the individual.

The substitute differs from the bill as filed by clarifying that the phrase “solicit business” specifically refers to communications conducted for the purpose of closing a sale or entering into a service agreement or service contract with a consumer, and by exempting individuals and entities acting on behalf of an entity licensed or certified by the Public Utility Commission.