

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 1265  
By: Wu et al. (Elife)  
Business & Commerce  
5/22/2015  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties have raised concerns regarding commercial entities swindling money from victims by mailing solicitations in connection with a good or service that imitates government forms, many of which suggest the imposition of a criminal penalty should the recipient fail to remit a payment for the applicable good or service. In an effort to address the defrauding of those recipients who are unaware of the sender's intent, C.S.H.B. 1265 amends current law relating to deceptive trade practices.

C.S.H.B. 1265 amends current law relating to a deceptive act or practice involving a solicitation in connection with a good or service or involving the production, sale, distribution, or promotion of certain synthetic substances.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 17.46(b), Business & Commerce Code, as follows:

(b) Provides that, except as provided in Subsection (d) (providing that, for the purposes of relief, the term "false, misleading, or deceptive acts or practices" is limited to the acts enumerated in specific subdivisions of Subsection (b) of this section) of this section, the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, certain acts, including:

(1)-(19) Makes no change to these subdivisions.

(20) Makes a nonsubstantive change.

(21)-(27) Makes no change to these subdivisions.

(28) delivering or distributing a solicitation in connection with a good or service that represents that the solicitation is sent on behalf of a governmental entity when it is not, or resembles a governmental notice or form that represents or implies that a criminal penalty may be imposed if the recipient does not remit payment for the good or service;

(29) delivering or distributing a solicitation in connection with a good or service that resembles a check or other negotiable instrument or invoice, unless the portion of the solicitation that resembles a check or other negotiable instrument or invoice includes a notice as set forth, clearly and conspicuously printed in at least 18-point type.

(30) in the production, sale, distribution, or promotion of a synthetic substance that produces and is intended to produce an effect when consumed or ingested similar to, or in excess of, the effect of a controlled substance or controlled

substance analogue, as those terms are defined by Section 481.002 (Definitions), Health and Safety Code, making a deceptive representation or designation about the synthetic substance, or causing confusion or misunderstanding as to the effects the synthetic substance causes when consumed or ingested; or

(31) a licensed public insurance adjuster directly or indirectly soliciting employment, as defined by Section 38.01 (Definitions), Penal Code, for an attorney, or a licensed public insurance adjuster entering into a contract with an insured for the primary purpose of referring the insured to an attorney without the intent to actually perform the services customarily provided by a licensed public insurance adjuster, provided that this subdivision may not be construed to prohibit a licensed public insurance adjuster from recommending a particular attorney to an insured.

SECTION 2. Provides that the change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.