

## **BILL ANALYSIS**

Senate Research Center  
87R27124 MWC-D

C.S.H.B. 3745  
By: Capriglione (Zaffirini)  
Business & Commerce  
5/20/2021  
Committee Report (Substituted)

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

Concerns have been raised regarding the increasing use of "bots" to scoop up elusive products sold online, such as newly released gaming systems or limited edition shoes, the second the items go on sale to the public. The persons controlling these bots then resell the products to persons genuinely interested in them, often at an exorbitant markup. H.B. 3745 would address this issue by prohibiting this practice in connection with the online sale of goods, include the use of certain technology and software during the sale of consumer goods from websites that functions as a bypass in the purchasing process.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 3745 amends current law relating to prohibitions in connection with the online sale of goods.

### **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 Subtitle B, Title 10, Business & Commerce Code, by adding Chapter 328, as follows:

#### CHAPTER 328. ONLINE SALE OF GOODS

Sec. 328.001. PROHIBITIONS CONCERNING SALE OF GOODS ONLINE. (a) Prohibits a person, for commercial purposes, from selling, using, or causing to be used any technology, device, or software in the sale of a good on an Internet website that:

- (1) functions as a bypass in the purchasing process;
- (2) disguises the identity of the purchaser;
- (3) permits the purchase of a quantity of goods in a number that exceeds the maximum number of goods that are authorized to be sold to one purchaser as specified by the seller or operator on the website;
- (4) allows for the unauthorized access to or identification of gift card information, including gift card numbers and gift card personal identification numbers; or
- (5) circumvents a security measure, access control system, or other control, authorization, or measure in the purchasing process.

(b) Provides that this section does not apply to the seller of the good on the Internet website or the operator of the Internet website.

Sec. 328.002. ENFORCEMENT BY ATTORNEY GENERAL; INJUNCTION. (a)  
Authorizes the attorney general to investigate a claim that a person violated this chapter.

(b) Authorizes the attorney general, if the attorney general believes that a person is violating this chapter, to bring an action in the name of the state to restrain or enjoin the person from violating this chapter.

(c) Entitles the attorney general to recover all reasonable costs of bringing an action under this section, including court costs, reasonable attorney's fees, and investigation costs.

SECTION 2. Effective date: September 1, 2021.