

SUBJECT: Deceptive trade practice involving household goods carrier advertising

COMMITTEE: Business and Industry —favorable, without amendment

VOTE: 7 ayes — Giddings, Bailey, Martinez, Solomons, Taylor, Vo, Zedler

0 nays

1 present not voting — Elkins

1 absent — Bohac

WITNESSES: For — John Willis, Southwest Movers Association

Against — None

BACKGROUND: Under Transportation Code, sec. 643.153, the Texas Department of Transportation (TxDOT) must adopt rules to protect a consumer using the service of a motor carrier who is transporting household goods for compensation. TxDOT may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must require a motor carrier transporting household goods to list a place of business, including a street address in this state and the carrier's registration number, in any print advertising published in the state.

Texas Administrative Code, Title 43, Part 1, sec. 18.52(a) provides that a household goods carrier include the following information on print advertisements addressing a local market in this state:

- the name of the household goods carrier as shown on the certificate of registration;
- the street address of the household good carrier's or its agent's place of business in this state; and
- the household goods carrier's certificate of registration number in the following form, "TxDOT No. _____."

DIGEST: HB 1870 would make it an unlawful deceptive trade practice, under Business and Commerce Code, sec. 17.46(b), to sell print advertising to a motor carrier registered to transport household goods in this state and not including in the advertising the carrier's certificate of registration number issued by TxDOT.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: HB 1870 would protect consumers by making it a violation to sell print advertising to household goods carriers without including the carriers' TxDOT certificate (registration) numbers. Under the bill, failure to include this number would create a false, misleading, or deceptive practice.

With a carrier's certificate number, potential customers can investigate a company's claim history and seek help settling disputes involving claims for damages. HB 1870 would allow customers needing the services of household goods carriers to make more informed decisions. The bill would address only print advertising because that is the most prevalent advertising medium among household goods carriers, specifically Yellow Pages.

Because current law requires these carriers to include their TxDOT certificate numbers, many of the 40,000 household goods carriers in Texas do, but many do not. This could be a matter of education or awareness on the part of the carriers and consumers. By making omission of a carrier's certificate number a violation subject to the deceptive trade practices act, the bill would establish greater incentive for compliance.

Concerns about a print advertiser being in possible violation for omitting a household goods carrier's TxDOT certificate number could be addressed by an amendment that would shift the responsibility to include the certificate number to those buying, rather than selling, print advertising.

OPPONENTS SAY: HB 1870 as written would place the onus of including a TxDOT certificate number in print advertising on the seller of advertising to a household goods carrier, not the household goods carrier buying such advertising. Because advertisers might not fully be aware of household goods carriers' legal requirements for registration disclosure, it would seem more appropriate for the bill to place the duty to include the information on the

household goods carrier, not the advertiser.

NOTES:

The author plans to offer a floor amendment to redirect the violation of an unlawful deceptive trade practice to those buying print advertising, rather than selling such advertising, if they did not include in the advertising a TxDOT certificate number for a motor carrier registered to transport household goods.