

BILL ANALYSIS

Senate Research Center
83R21455 RWG-F

C.S.S.B. 1166
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State Affairs
4/22/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Deceptive Trade Practices Act (DTPA) allows the consumer protection division of the Office of the Attorney General to request that a trier of fact impose a civil penalty of not more than \$20,000 per violation, with no cap, on businesses who have conducted false, misleading, or deceptive acts or practices in Texas. Prior to passage of S.B. 1212 in 2003, the statute allowed imposition of a penalty of \$2,000 per violation, capped at a total of \$10,000. These amounts proved to be too low for egregious misconduct. The uncapped \$20,000 per violation penalty may be excessive, particularly if the conduct was inadvertent or did not cause actual damages.

C.S.S.B. 1166 provides a penalty of \$10,000 per violation or \$20,000 per violation, if the trier of fact finds that the person intentionally committed the violation. Under C.S.S.B. 1166, the attorney general can continue to pursue significant remedies against businesses whose false, misleading, or deceptive conduct was intentional. The bill does not affect the attorney general's power to obtain injunctive relief, to recover damages, and to obtain reimbursement of funds or property wrongfully acquired. The bill also does not amend any aspect of DTPA allowing individuals to file or pursue civil causes of action to recover damages under DTPA.

C.S.S.B. 1166 amends current law relating to civil penalties under the Deceptive Trade Practices-Consumer Protection Act.

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 17.47(c), Business & Commerce Code, as follows:

(c) Requires the amount of a penalty under this subsection to be determined by the trier of fact and provides that it may be:

(1) not more than \$10,000, rather than \$20,000, per violation; or \$20,000 per violation, if the trier of fact finds that the person intentionally committed the violation; and

(2) Makes no change to this subdivision.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2013.