

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2573
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that it is difficult to prosecute certain kinds of immigration consulting fraud, including the practice of notaries public, or notarios, who are not licensed to practice law and take advantage of the Spanish cognate for lawyer mistranslation by representing themselves as if they are licensed to provide immigration services. The parties also report that local district, county, and city attorneys would prosecute these offenses if they were provided with the tools to do so. C.S.H.B. 2573 seeks to address this issue.

The type of immigration consulting fraud covered under this bill is not currently an explicit offense under the Texas Deceptive Trade Practices Act. This bill would expand authority and streamline the process in order to assist agencies who do not have the capacity to prosecute all immigration services fraud.

A committee substitute was developed that includes advertising by electronic communications, such as websites and online videos, in the list of deceptive trade acts where many brazen notarios advertise almost exclusively in the United States.

C.S.H.B. 2573 amends statute relating to deceptive trade practices commonly identified as notary public fraud or notario fraud.

C.S.H.B. 2573 amends current law relating to a deceptive trade practice related to the use of certain words to imply that a person who is not an attorney is authorized to practice law and the prosecution of a cause of action arising from that practice.

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 the term "false, misleading, or deceptive acts or practices" is limited to certain acts) of this section, the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, certain acts as enumerated, including using the translation into a foreign language of a title or other word, including "attorney," "lawyer," "licensed," "notary," and "notary public," in any written or electronic material, including an advertisement, a business card, a letterhead, stationery, a website, or an online video, in reference to a person who is not an attorney in order to imply that the person is authorized to practice law in the United States. Changes a reference to guarantee to guaranty and makes nonsubstantive changes.

SECTION 2. Amends Section 17.48, Business & Commerce Code, by adding Subsections (c) and (d), as follows:

(c) Requires that three-fourths of any civil penalty awarded by a court, in an action prosecuted by a district or county attorney under this subchapter for a violation of Section

17.46(b)(28) (relating to translations into a foreign language a title or word implying a person is authorized to practice law), be paid to the county where the court is located.

(d) Provides that a district or county attorney is not required to obtain the permission of the consumer protection division to prosecute an action under this subchapter for a violation of Section 17.46(b)(28), if the district or county attorney provides prior written notice to the division as required by Subsection (b) (authorizing a district or county attorney, with prior written notice to the consumer protection division, to institute and prosecute actions seeks injunctive relief under this subchapter after employing with the prior contract certain provisions).

SECTION 3. 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 4. Effective date: September 1, 2015.