

BILL ANALYSIS

Senate Research Center

S.B. 1212
By: Van de Putte
Jurisprudence
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Enrolled

DIGEST AND PURPOSE

Current law permits a court to make additional orders to compensate consumers for actual damages or to restore money or property lost as a result of a defendant's unlawful conduct and allows for civil penalties of up to \$2,000 per violation not to exceed a total of \$10,000. S.B. 1212 reaffirms that the attorney general has the authority to seek restitution for identifiable individuals in the public interest; increases civil penalty amounts to a maximum of \$20,000 per violation, with no cumulative cap; and requires notice to the attorney general's consumer protection division of any private, class-action lawsuit filed under the Deceptive Trade Practices Act (DTPA) and grants the attorney general's office explicit authority to intervene in DTPA private class action lawsuits representing the public interest.

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, Business & Commerce Code, by amending Subsection (c) and adding Subsection (g), as follows:

(c) Authorizes the consumer protection division of the attorney general's office, in addition to the request for a temporary restraining order or permanent injunction in a proceeding brought under Subsection (a) of this section, to request, and the trier of fact to award, a civil penalty to be paid to the state in a certain amount.

(g) Provides that in bringing or participating in an action under this subchapter, the consumer protection division acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the consumer protection division requests that the court award relief.

SECTION 2. Amends Subchapter E, Chapter 17, Business & Commerce Code, by adding Section 17.501, as follows:

Sec. 17.501. CONSUMER PROTECTION DIVISION PARTICIPATION IN CLASS ACTION. (a) Requires a consumer filing an action under Section 17.50 that is to be maintained as a class action to send certain information to the consumer protection division.

(b) Requires the court to abate the action for 60 days if the court finds that notice was not provided to the consumer protection division as required by Subsection (a).

(c) Authorizes the court, on showing of good cause, to authorize the consumer protection division, as representative of the public, to intervene in an action to which this section applies. Requires the consumer protection division to file its motion for intervention with the court before which the action is pending and serve a copy of the motion on each party to the action.

SECTION 3. Effective date: September 1, 2003.

SECTION 4. Makes application of this Act prospective.