

By: Van de Putte

S.B. No. 1212

A BILL TO BE ENTITLED

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AN ACT

relating to participation by the attorney general's consumer protection division and the award of civil penalties in an action under the Deceptive Trade Practices-Consumer Protection Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 17.47, Business & Commerce Code, is amended by amending Subsection (c) and adding Subsection (g) to read as follows:

(c) In addition to the request for a temporary restraining order, or permanent injunction in a proceeding brought under Subsection (a) of this section, the consumer protection division may request, and the trier of fact may award, a civil penalty to be paid to the state in an amount of:

(1) not less than \$1,000 or more than \$20,000 [~~\$2,000~~] per violation [~~, not to exceed a total of \$10,000~~]; and [~~or~~]

(2) [~~not more than \$10,000 per violation, not to exceed a total of \$100,000,~~] if [~~the consumer protection division determines that~~] the act or practice that is the subject of the proceeding was calculated to acquire or deprive money or other property from a consumer who was 65 years of age or older when the act or practice occurred, an additional amount of not more than \$100,000 per violation.

(g) In bringing or participating in an action under this subchapter, the consumer protection division acts in the name of

1 the state and does not establish an attorney-client relationship
2 with another person, including a person to whom the consumer
3 protection division requests that the court award relief.

4 SECTION 2. Subchapter E, Chapter 17, Business & Commerce
5 Code, is amended by adding Section 17.501 to read as follows:

6 Sec. 17.501. CONSUMER PROTECTION DIVISION PARTICIPATION IN
7 CLASS ACTION. (a) A consumer filing an action under Section 17.50
8 that is to be maintained as a class action shall send to the
9 consumer protection division:

10 (1) a copy of the notice required by Section
11 17.505(a), by registered or certified mail, at the same time the
12 notice is given to the person complained against; and

13 (2) a copy of the petition in the action not later than
14 the earlier of:

15 (A) the 30th day after the date the petition is
16 filed; or

17 (B) the 10th day before the date of any hearing on
18 class certification or a proposed settlement.

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

22 (c) The court, on a showing of good cause, may allow the
23 consumer protection division, as representative of the public, to
24 intervene in an action to which this section applies. The consumer
25 protection division shall file its motion for intervention with the
26 court before which the action is pending and serve a copy of the
27 motion on each party to the action.

1 SECTION 3. This Act takes effect September 1, 2003.

2 SECTION 4. The change in law made by this Act applies only
3 to an action instituted on or after the effective date of this Act.
4 An action instituted before the effective date of this Act is
5 governed by the law in effect when the action was instituted, and
6 the former law is continued in effect for that purpose.