

By: Eissler

H.B. No. 33

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of the offense of
deceptive business practices.

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

SECTION 1. Sections 32.42(b), (c), and (d), Penal Code, are
amended to read as follows:

(b) A person commits an offense if in the course of business
the person ~~[he]~~ intentionally, knowingly, recklessly, or with
criminal negligence commits one or more of the following deceptive
business practices:

(1) using, selling, or possessing for use or sale a
false weight or measure, or any other device for falsely
determining or recording any quality or quantity;

(2) selling less than the represented quantity of a
property or service;

(3) taking more than the represented quantity of
property or service when as a buyer the actor furnishes the weight
or measure;

(4) selling an adulterated or mislabeled commodity;

(5) passing off property or service as that of
another;

(6) representing that a commodity is original or new
if it is deteriorated, altered, rebuilt, reconditioned, reclaimed,
used, or secondhand;

1 (7) representing that a commodity or service is of a
2 particular standard, quality, style, grade, or model if it is of
3 another;

4 (8) advertising property or service with intent:

5 (A) not to sell it as advertised, or

6 (B) not to supply reasonably expectable public
7 demand, unless the advertising adequately discloses a time or
8 quantity limit;

9 (9) representing the price of property or service
10 falsely or in a way tending to mislead;

11 (10) making a materially false or misleading statement
12 of fact concerning the reason for, existence of, or amount of a
13 price or price reduction;

14 (11) conducting a deceptive sales contest; or

15 (12) making a materially false or misleading
16 statement:

17 (A) in an advertisement for the purchase or sale
18 of property or service; or

19 (B) otherwise in connection with the purchase or
20 sale of property or service.

21 (c) An offense under Subsection ~~[Subsections]~~ (b)(1),
22 (b)(2), (b)(3), (b)(4), (b)(5), or ~~and~~ (b)(6) is:

23 (1) a Class C misdemeanor if the actor commits an
24 offense with criminal negligence and if he has not previously been
25 convicted of a deceptive business practice; or

26 (2) a Class A misdemeanor if the actor commits an
27 offense intentionally, knowingly, recklessly or if he has been

1 previously convicted of a Class B or C misdemeanor under this
2 section.

3 (d) An offense under Subsection [~~Subsections~~] (b)(7),
4 (b)(8), (b)(9), (b)(10), (b)(11), or [~~and~~] (b)(12) is a Class A
5 misdemeanor, except that an offense under Subsection (b)(7) or
6 (b)(12) is a state jail felony if the deceptive business practice is
7 a service for the construction or repair of a new or existing
8 residence, including the construction or repair of an improvement
9 appurtenant to the residence.

10 SECTION 2. The change in law made by this Act applies only
11 to an offense committed on or after the effective date of this Act.
12 An offense committed before the effective date of this Act is
13 covered by the law in effect when the offense was committed, and the
14 former law is continued in effect for that purpose. For purposes of
15 this section, an offense was committed before the effective date of
16 this Act if any element of the offense was committed before that
17 date.

18 SECTION 3. This Act takes effect September 1, 2005.