

BILL ANALYSIS

Senate Research Center
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S.B. 1397
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas's Deceptive Trade Practices Act is in need of reform to ensure that the state's businesses are not exposed to meritless lawsuits from individuals who have suffered no real harm. Current law does not require the consumer to demonstrate that on an individual basis that the deceptive act or practice for which damages are sought caused the consumer to enter into a transaction that resulted in damages. Current law fails to limit economic damages to the amount equal to the difference between the amount paid by the consumer for the good or service and the actual market value of the good or service that the consumer received because current law permits both "out-of-pocket" loss recovery and recovery of consequential or special damages.

As proposed, S.B. 1397 ensures fairness for all litigants in consumer protection lawsuits.

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 17.50, Business & Commerce Code, by adding Subsection (a-1) and amending Subsection (b), as follows:

(a-1) Requires a consumer seeking to recover damages under this section in an individual action, class action, or other type of action to prove on an individual basis that the deceptive act or practice for which damages are sought caused the consumer to enter into a transaction that resulted in the damages.

(b) Authorizes each consumer prevailing in a suit filed under this section (Relief for Consumers) to obtain certain relief, including the amount of economic damages found by the trier of fact, limited to an amount equal to the difference between the amount paid by the consumer for the good or service and the actual market value of the good or service that the consumer received, provided that the consumer has the burden of proving this amount.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2007.