

BILL ANALYSIS

H.B. 3129
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Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 63rd Texas Legislature enacted the Texas Home Solicitation Act, now Chapter 39 of the Business & Commerce Code, which provides a consumer the right to cancel a home solicitation transaction that occurs at the consumer's residence. The act's intent is to protect residents from high-pressure door-to-door salesmen and to allow a period within which a consumer can cancel a transaction and require the merchant to restore any new or altered good to its original state. The act has been amended several times over the years.

Currently, a licensed plumber, electrician, or heating, ventilation, and air conditioning installer is subject to provisions of the act, even though these license holders are not going door-to-door engaging in the solicitation of their services, in the manner of a door-to-door salesman, but are instead providing services in response to a consumer's request. Under provisions of the act, a consumer hypothetically could purchase a new water heater and cancel the transaction within three days, requiring the installer to return with the old water heater, remove the new water heater, and re-install the old water heater. This application of the act is not consistent with its legislative intent and some consumers may take advantage of this unintended application of the act at the expense and through no fault of a license holder.

H.B. 3129 provides that Chapter 39 of the Business & Commerce Code does not apply to a licensed plumber, electrician, or air conditioning and refrigeration contractor.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3129 amends the Occupations Code to specify that provisions relating to the cancellation of certain consumer transactions do not apply to a good or service provided by the holder of a license issued under provisions regulating plumbers, air conditioning and refrigeration contractors, or electricians if the transaction is initiated by the consumer.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.