

By: Quintanilla

H.B. No. 972

Substitute the following for H.B. No. 972:

By: Elkins

C.S.H.B. No. 972

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to inclusion on certain advertising documents of the  
3 license or certificate of registration number of certain  
4 individuals regulated by this state who solicit business in  
5 consumers' homes; providing a civil penalty.

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

7 SECTION 1. Title 2, Occupations Code, is amended by adding  
8 Chapter 60 to read as follows:

9 CHAPTER 60. GENERAL LICENSING AND REGISTRATION REQUIREMENTS

10 Sec. 60.001. SOLICITATION AT CONSUMER'S HOME. (a) In this  
11 section, "solicit business" means to advertise an individual's  
12 business practice, for which the individual is required to hold a  
13 license or certificate of registration issued by a state regulatory  
14 agency, to a consumer at the consumer's home, in person, over a  
15 telephone, through a salesperson, or through a written  
16 communication mailed, e-mailed, or otherwise delivered, for the  
17 purpose of closing a sale or entering into a service agreement or  
18 service contract with the consumer in the home.

19 (b) A state regulatory agency that determines that the  
20 individuals licensed or registered by the agency solicit business  
21 in consumers' homes as a regular business practice shall adopt  
22 rules requiring each individual licensed or registered by the  
23 agency to prominently display the individual's license or  
24 certificate of registration number on any document, advertisement,

1 business card, or logo provided by the individual to a consumer as  
2 part of an effort to solicit business from the consumer.

3 (c) An individual who holds a license or certificate of  
4 registration issued by a state regulatory agency that adopts rules  
5 under Subsection (b) shall prominently display the individual's  
6 license or certificate number on any document, advertisement,  
7 business card, or logo provided by the individual to a consumer as  
8 part of an effort to solicit business from the consumer.

9 Sec. 60.002. EXEMPTION. This chapter does not apply to:

10 (1) an individual employed by or acting on behalf of an  
11 entity that holds a license or certificate of registration issued  
12 by the Public Utility Commission of Texas; or

13 (2) an entity controlling, controlled by, or under the  
14 same common control as an entity that holds a license or certificate  
15 of registration issued by the Public Utility Commission of Texas.

16 Sec. 60.003. CIVIL PENALTY. (a) An individual is liable to  
17 this state for a civil penalty of not more than \$1,000 for each  
18 violation if the individual:

19 (1) violates Section 60.001 or a rule adopted by a  
20 state regulatory agency to enforce that section;

21 (2) represents that an expired license or certificate  
22 of registration issued by a state regulatory agency is valid; or

23 (3) displays a counterfeit license or certificate of  
24 registration or uses a counterfeit license or certificate number in  
25 any document provided to the public.

26 (b) The amount of the penalty shall be based on:

27 (1) the seriousness of the violation;

1           (2) the history of previous violations;

2           (3) the amount necessary to deter a future violation;

3 and

4           (4) any other matter that justice may require.

5           (c) The attorney general may sue to collect a civil penalty  
6 under this section. In the suit the attorney general may recover,  
7 on behalf of the state, the reasonable expenses incurred in  
8 obtaining the penalty, including investigation and court costs,  
9 reasonable attorney's fees, witness fees, and other expenses.

10           SECTION 2. Not later than December 1, 2009, a state  
11 regulatory agency or the governing body of a state regulatory  
12 agency, as appropriate, to which Chapter 60, Occupations Code, as  
13 added by this Act, applies shall adopt the rules necessary to  
14 implement that chapter.

15           SECTION 3. Notwithstanding Chapter 60, Occupations Code, as  
16 added by this Act, an individual subject to that chapter is not  
17 required to include the individual's license or certificate number  
18 on documents provided to the public before January 1, 2010.

19           SECTION 4. This Act takes effect September 1, 2009.