

By: Davis of Dallas

H.B. No. 1444

A BILL TO BE ENTITLED

AN ACT

relating to electronic contracts and solicitations offered to consumers for goods or services.

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

SECTION 1. Subtitle B, Title 10, Business & Commerce Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. ELECTRONIC CONTRACTS AND SOLICITATIONS

Sec. 326.001. DEFINITIONS. In this chapter:

(1) "Consumer" means a person who seeks or acquires a good or service that is to be used primarily for personal, family, or household purposes.

(2) "Electronic" has the meaning assigned by Section 322.002.

Sec. 326.002. REQUIREMENTS OF ELECTRONIC CONTRACTS AND SOLICITATIONS. To the extent allowed by federal law, a contract entered into or a solicitation offered through electronic means to a consumer for the purchase of a good or service must:

(1) be in plain language;

(2) be in a readable and understandable format; and

(3) include, in a conspicuous format distinguishable from other information, important terms of the contract, including any of the following information, as applicable:

(A) customer service contact information;

(B) pricing information;

1 (C) cancellation policies;

2 (D) interest charged;

3 (E) date on which the trial period expires; and

4 (F) penalties or fees imposed.

5 Sec. 326.003. ELECTRONIC CANCELLATION OF SERVICES. To the
6 extent allowed by federal law, if a person offers a consumer the
7 option of entering into a contract for services through electronic
8 means and the contract contains a provision that allows the
9 consumer the option to cancel the services under the contract, the
10 person offering the contract must also provide the consumer with
11 the ability to cancel the services under the contract through the
12 same electronic means.

13 Sec. 326.004. CONTRACT VOID. A contract for services that
14 cannot be canceled electronically as provided by Section 326.003 or
15 that does not conform to the requirements of Section 326.002 is
16 void.

17 Sec. 326.005. PRIVATE RIGHT OF ACTION. (a) A consumer
18 injured by a violation of this chapter may bring an action against a
19 person who commits the violation to recover the greater of:

20 (1) actual damages arising from the violation; or

21 (2) \$1,000.

22 (b) A person who prevails in an action brought under this
23 section is entitled to recover reasonable attorney's fees and court
24 costs.

25 SECTION 2. The change in law made by this Act applies only
26 to a solicitation or contract made, entered into, or renewed on or
27 after the effective date of this Act. A solicitation or contract

1 made, entered into, or renewed before the effective date of this Act
2 is governed by the law in effect when the solicitation or contract
3 was made, entered into, or renewed, and the former law is continued
4 in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2011.