

By: Wu

H.B. No. 1435

Substitute the following for H.B. No. 1435:

By: Farrar

C.S.H.B. No. 1435

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to commencement and prosecution of certain actions by and  
3 to investigations conducted by district and county attorneys under  
4 the Deceptive Trade Practices-Consumer Protection Act.

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

6 SECTION 1. Subchapter E, Chapter 17, Business & Commerce  
7 Code, is amended by adding Section 17.463 to read as follows:

8 Sec. 17.463. PRODUCTION, SALE, DISTRIBUTION, OR PROMOTION  
9 OF CERTAIN SYNTHETIC SUBSTANCES. (a) This section applies only to  
10 an act described by Section 17.46(b)(31).

11 (b) Subject to Subsection (e) and except as otherwise  
12 provided by this section, an act to which this section applies is  
13 subject to action by a district or county attorney under Sections  
14 17.47, 17.58, 17.60, and 17.61 to the same extent as the act is  
15 subject to action by the consumer protection division under those  
16 sections.

17 (c) If a district or county attorney, under the authority of  
18 this section, accepts assurance of voluntary compliance under  
19 Section 17.58, the district or county attorney must file the  
20 assurance of voluntary compliance in the district court in the  
21 county in which the alleged violator resides or does business.

22 (d) If a district or county attorney, under the authority of  
23 this section, executes and serves a civil investigative demand and  
24 files a petition described by Section 17.61(g), the petition must

1 be filed in the district court in the county where the parties  
2 reside.

3 (e) A district or county attorney may act under this section  
4 so long as the consumer protection division does not intend to act  
5 with respect to that matter.

6 (f) Notwithstanding any other law, in an action brought by a  
7 district or county attorney under this section, all settlements or  
8 penalties collected by the district or county attorney shall be  
9 divided between the state and the county in which the attorney  
10 brought suit, with:

11 (1) 50 percent of the amount collected paid to the  
12 comptroller for deposit to the credit of the basic civil legal  
13 services account established by Section 51.943, Government Code;  
14 and

15 (2) 50 percent of the amount collected paid to the  
16 county.

17 SECTION 2. Subchapter E, Chapter 17, Business & Commerce  
18 Code, is amended by adding Section 17.463 to read as follows:

19 Sec. 17.463. PRODUCTION, SALE, DISTRIBUTION, OR PROMOTION  
20 OF CERTAIN SYNTHETIC SUBSTANCES. (a) This section applies only to  
21 an act described by Section 17.46(b)(30).

22 (b) Subject to Subsection (e) and except as otherwise  
23 provided by this section, an act to which this section applies is  
24 subject to action by a district or county attorney under Sections  
25 17.47, 17.58, 17.60, and 17.61 to the same extent as the act is  
26 subject to action by the consumer protection division under those  
27 sections.

1       (c) If a district or county attorney, under the authority of  
2 this section, accepts assurance of voluntary compliance under  
3 Section 17.58, the district or county attorney must file the  
4 assurance of voluntary compliance in the district court in the  
5 county in which the alleged violator resides or does business.

6       (d) If a district or county attorney, under the authority of  
7 this section, executes and serves a civil investigative demand and  
8 files a petition described by Section 17.61(g), the petition must  
9 be filed in the district court in the county where the parties  
10 reside.

11       (e) A district or county attorney may act under this section  
12 so long as the consumer protection division does not intend to act  
13 with respect to that matter.

14       (f) Notwithstanding any other law, in an action brought by a  
15 district or county attorney under this section, all settlements or  
16 penalties collected by the district or county attorney shall be  
17 divided between the state and the county in which the attorney  
18 brought suit, with:

19               (1) 50 percent of the amount collected paid to the  
20 comptroller for deposit to the credit of the basic civil legal  
21 services account established by Section 51.943, Government Code;  
22 and

23               (2) 50 percent of the amount collected paid to the  
24 county.

25       SECTION 3. This Act applies only to conduct that occurs on  
26 or after the effective date of this Act.

27       SECTION 4. (a) Section 1 of this Act takes effect only if

1 the Act of the 85th Legislature, Regular Session, 2017, relating to  
2 nonsubstantive additions to and corrections in enacted codes  
3 becomes law.

4 (b) Section 2 of this Act takes effect only if the Act of the  
5 85th Legislature, Regular Session, 2017, relating to  
6 nonsubstantive additions to and corrections in enacted codes does  
7 not become law.

8 SECTION 5. This Act takes effect September 1, 2017.