

BILL ANALYSIS

C.S.H.B. 3745
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the increasing use of "bots" to scoop up elusive products sold online, such as newly released gaming systems or limited edition shoes, the very second the items go on sale to the public. It has been suggested that the resale of these items back to those genuinely interested in the items for themselves, which often happens at an exorbitant markup, nets an untold amount of revenue to the people employing the use of bots. C.S.H.B. 3745 seeks to address this issue by prohibiting this type of practice in connection with the online sale of goods, including the use of certain technology and software during the sale of consumer goods from websites that functions as a bypass in the purchasing process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 3745 amends the Business & Commerce Code to prohibit a person from selling, using, or causing to be used any method, technology, device, or software in the sale of a good on a website that does the following:

- functions as a bypass in the purchasing process;
- disguises the identity of the purchaser;
- permits the purchase of a quantity of goods in a number that exceeds the maximum number of goods that may be sold to one purchaser as specified by the seller or operator on the website; or
- circumvents a security measure, access control system, or other control, authorization, or measure in the purchasing process.

C.S.H.B. 3745 authorizes the attorney general to investigate a claim that a person violated this prohibition and, if the attorney general believes a person is violating or about to violate the prohibition, to bring an action in the name of the state to restrain or enjoin the person from committing the violation. The bill entitles the attorney general to recover all reasonable costs of bringing the action, including court costs, reasonable attorney's fees, and investigation costs.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3745 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the substitute's prohibition applies with respect to the online sale of goods, the original also specifically included the online sale or resale of event tickets in the scope of its prohibition. Accordingly, the substitute does not include the following, which were present in the original:

- a prohibition against decoding, decrypting, modifying, or reverse engineering an event ticket or related algorithm or barcode;
- definitions for "event," "event ticket," "resale," "resale ticket agent," and "ticket issuer"; and
- a procedural provision making the bill's provisions applicable to a purchase that occurs on or after the bill's effective date, regardless of whether any event tickets were issued before that date.