

A BILL TO BE ENTITLED

AN ACT

relating to the use of an entity name that falsely implies governmental affiliation; imposing a civil penalty.

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

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 150C to read as follows:

CHAPTER 150C. ENTITY NAME FALSELY IMPLYING GOVERNMENTAL AFFILIATION

Sec. 150C.001. DEFINITION. In this chapter, "governmental unit" has the meaning assigned by Section 101.001.

Sec. 150C.002. FALSELY IMPLYING GOVERNMENTAL AFFILIATION.

(a) A governmental unit is entitled to enjoin another person's use of an entity name that might falsely imply governmental affiliation with the governmental unit.

(b) In an action brought under this section, the governmental unit is entitled to injunctive relief throughout the state.

(c) If the court finds that the person against whom the injunctive relief is sought wilfully intended to imply governmental affiliation with the governmental unit, the court, in the court's discretion, may:

(1) enter judgment in an amount not to exceed three times the amount of the entity's profits and the governmental unit's damages; and

1 (2) award reasonable attorney's fees to the
2 governmental unit.

3 SECTION 2. Subchapter B, Chapter 5, Business Organizations
4 Code, is amended by adding Section 5.064 to read as follows:

5 Sec. 5.064. NAME FALSELY IMPLYING GOVERNMENTAL AFFILIATION
6 PROHIBITED. (a) A filing entity or a foreign filing entity may not
7 use a name in this state that falsely implies an affiliation with a
8 governmental entity.

9 (b) The secretary of state may, in the secretary's sole
10 discretion, determine at any time that a filing entity's or a
11 foreign filing entity's name falsely implies an affiliation with a
12 governmental entity in violation of Subsection (a), including after
13 erroneously accepting a filing instrument or an application for
14 registration of name.

15 (c) If the secretary of state determines that a filing
16 entity's or foreign filing entity's name falsely implies an
17 affiliation with a governmental entity, the secretary of state
18 shall notify the entity in writing. Not later than the 30th day
19 after the date the secretary of state sends the notification
20 required by this subsection, the entity shall:

21 (1) cease transacting business or operating under that
22 name in this state; and

23 (2) file with the secretary of state the applicable
24 instrument to amend the entity's name.

25 (d) If a filing entity or a foreign filing entity violates
26 Subsection (c), the entity is liable to this state for a civil
27 penalty in an amount not to exceed \$1,000 for each violation. Each

1 day a violation continues is a separate violation for purposes of
2 imposing the civil penalty.

3 (e) The attorney general may bring an action in the name of
4 the state:

5 (1) to recover a civil penalty imposed under this
6 section; or

7 (2) for injunctive relief to require compliance with
8 this section.

9 (f) An action under this section may be brought in a
10 district court in Travis County.

11 (g) The attorney general may recover reasonable expenses
12 incurred in obtaining injunctive relief or a civil penalty under
13 this section, including court costs, reasonable attorney's fees,
14 and investigatory costs.

15 SECTION 3. This Act takes effect September 1, 2021.