

BILL ANALYSIS

C.S.H.B. 3102
By: Lambert
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Originally passed in 1973 by the 63rd Legislature, Regular Session, Texas' law regarding home solicitation sought to regulate in-home sales practices of that era, such as door-to-door salespeople unscrupulously peddling goods. However, between the vast decline of such sales methods and the passage of other consumer protection laws, such as the Deceptive Trade Practices Act, the in-home sales law currently contributes only an additional layer of costly regulation that no longer protects the consumer. C.S.H.B. 3102 seeks to resolve this issue by revising the statutory language regarding in-home sales practices.

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. 3102 amends the Business & Commerce Code to specify that provisions relating to the cancellation of certain consumer transactions apply to the following consumer transactions by a consumer that is not a customer of the merchant, or of an affiliate of the merchant, at the time of the solicitation or has not previously placed an order for goods or services with the merchant, an affiliate of the merchant, or the merchant's agent:

- a transaction in which a merchant or a merchant's agent is not regulated by the Texas Department of Insurance (TDI) or the Texas Department of Licensing and Regulation (TDLR) and engages in a personal solicitation of a sale to the consumer at a place other than the merchant's place of business; or
- a transaction in which a consumer's agreement or offer to purchase is given to the merchant or the merchant's agent at a place other than the merchant's place of business if the merchant is not regulated by TDI or TDLR.

The bill exempts from provisions relating to the cancellation of certain consumer transactions a sale of goods or services made entirely by mail, Internet, or telephone and without any other contact between the buyer and the seller or the seller's representative before delivery of the goods or performance of the services.

C.S.H.B. 3102 applies only to a consumer transaction that occurs on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3102 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the applicability of provisions relating to the cancellation of certain consumer transactions as follows:

- limiting to merchants or merchants' agents that are not regulated by TDI or TDLR the merchants or merchants' agents to which the provisions apply, which the introduced did not do; and
- whereas the introduced applied those provisions to certain transactions taken by the merchant or merchant's agent without the consumer's prior invitation or request, the substitute applies the provisions to such transactions in which a consumer is not a customer of the merchant, or of an affiliate of the merchant, at the time of the solicitation or has not previously placed an order for goods or services with the merchant, an affiliate of the merchant, or the merchant's agent.

The substitute omits the provisions from the introduced that required a merchant in good faith to have substantially begun to perform services at the consumer's request before a consumer gave notice of cancellation of the transaction for the merchant to be entitled to compensation.