

BILL ANALYSIS

S.B. 1607
By: Kolkhorst
Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Money transmission license holders are imposing fines against consumers who violate the money transmission license holders' terms of service. These fees have included the deduction of money from consumers' accounts for spreading what the money transmission license holder considered to be "misinformation." S.B. 1607 seeks to address this issue by prohibiting a money transmission license holder from including in its terms of service agreement a provision allowing or providing for a monetary fine or penalty for a violation of the agreement and by levying a civil penalty against a license holder who violates that prohibition.

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

S.B. 1607 amends the Finance Code to prohibit a money transmission license holder or money transmission licensee from including in the license holder's or licensee's terms of service agreement a provision allowing or providing for a monetary fine or penalty for violating any provision of the agreement. This prohibition expressly may not be construed to prevent a license holder or licensee from closing a customer account as a result of a customer's violation of the license holder's or licensee's terms of service agreement.

S.B. 1607 makes a license holder or licensee that violates the prohibition against the imposition of a fine or penalty for a terms of service violation liable to the state for a civil penalty in an amount equal to three times the amount of the fine or penalty imposed by the license holder or licensee in addition to any other relief provided for a violation of provisions governing money services businesses. The bill authorizes the attorney general to bring an action in the name of the state to recover the civil penalty and authorizes the attorney general to recover attorney's fees and costs incurred in bringing the action.

S.B. 1607 establishes that the bill's provisions regarding the prohibition applicable to a money transmission license holder take effect contingent on the act of the 88th Legislature, Regular Session, 2023, relating to the regulation of money services businesses, not becoming law and that the bill's provisions regarding the prohibition applicable to a money services licensee take effect contingent on that act becoming law.

S.B. 1607 applies only to a terms of service agreement entered into after the bill's effective date. A terms of service agreement entered into before the bill's effective date is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2023.