

## **BILL ANALYSIS**

Senate Research Center  
88R22944 MLH-F

C.S.S.B. 1607  
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Business & Commerce  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2022 PayPal announced a plan to charge a fine of \$2,500 to users found to have spread misinformation. The policy was set to go into effect on November 3, 2022. However PayPal decided to retract the plan after widespread criticism. The event brought attention to potential actions of money service businesses that could be used to control the broader activities of users.

C.S.S.B. 1607 makes clear that a user cannot be fined for a violation of terms of services. This means that a user will not have to forfeit funds in their account. However, the legislation does not impact the ability of a private enterprise to pick and chose their customers.

#### Key Provisions:

- Prohibits money transmission license holders from imposing a fine on consumers as a result of a violation of terms of service by the customer
- Clarifies that a money transmission license holder retains the right to close a customer account as a result of a violation of terms of service by the customer
- A money transmission license holder who imposes a fine on a customer is liable to the state for a civil penalty for an amount three times the fee imposed on the consumer

#### Committee Substitute Changes:

The committee substitute is drafted to account for the potential passage of S.B. 895, which has already passed the Senate. That legislation repeals Chapter 151, Finance Code. The committee substitute is drafted with a contingency for the passage of S.B. 895 and one if it does not pass. This technical change makes no substantive changes.

C.S.S.B. 1607 amends current law relating to prohibiting the imposition of a monetary fine or penalty for a violation of a money services business's terms of service agreement and provides a civil penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to the regulation of money services businesses, does not become law.

(b) Amends Subchapter E, Chapter 151, Finance Code, by adding Section 151.406, as follows:

Sec. 151.406. PROHIBITION ON IMPOSITION OF FINE OR PENALTY FOR TERMS OF SERVICE VIOLATION. (a) Prohibits a money transmission license

holder from including in the license holder's terms of service agreement a provision allowing or providing for a monetary fine or penalty for violating any provision of the terms of service agreement.

(b) Prohibits this section from being construed to prevent a money transmission license holder from closing a customer account as a result of a customer's violation of the license holder's terms of service agreement.

(c) Provides that a money transmission license holder that violates this section is liable to this state for a civil penalty in an amount equal to three times the amount of the fine or penalty imposed by the license holder in addition to any other relief provided for a violation of Chapter 151 (Regulation of Money Services Businesses).

(d) Authorizes the attorney general to bring an action in the name of the state to recover the civil penalty under Subsection (c). Authorizes the attorney general to recover attorney's fees and costs incurred in bringing an action under Subsection (c).

SECTION 2. (a) Provides that this section takes effect only if the Act of the 88th Legislature, Regular Session, 2023, relating to the regulation of money services businesses, becomes law.

(b) Amends Subchapter G, Chapter 152, Finance Code, by adding Section 152.305, as follows:

Sec. 152.305. PROHIBITION ON IMPOSITION OF FINE OR PENALTY FOR TERMS OF SERVICE VIOLATION. (a) Prohibits a money transmission licensee from including in the licensee's terms of service agreement a provision allowing or providing for a monetary fine or penalty for violating any provisions of the terms of service agreement.

(b) Prohibits this section from being construed to prevent a money transmission licensee from closing a customer account as a result of a customer's violation of the licensee's terms of service agreement.

(c) Provides that in addition to any other relief provided for a violation of Chapter 152, a money transmission licensee that violates this section is liable to this state for a civil penalty in an amount equal to three times the amount of the fine or penalty imposed by the licensee.

(d) Authorizes the attorney general to bring an action in the name of the state to recover a civil penalty under Subsection (c). Authorizes the attorney general to recover attorney's fees and costs incurred in bringing an action under Subsection (c).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.