

By: Flores

H.B. No. 4089

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and operation of electric bicycles.

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

SECTION 1. Section 17.46(b), Business & Commerce Code, is amended to read as follows:

(b) Except as provided in Subsection (d) of this section, the term "false, misleading, or deceptive acts or practices" includes, but is not limited to, the following acts:

(1) passing off goods or services as those of another;

(2) causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services;

(3) causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) using deceptive representations or designations of geographic origin in connection with goods or services;

(5) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which the person does not;

(6) representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, or

1 secondhand;

2 (7) representing that goods or services are of a
3 particular standard, quality, or grade, or that goods are of a
4 particular style or model, if they are of another;

5 (8) disparaging the goods, services, or business of
6 another by false or misleading representation of facts;

7 (9) advertising goods or services with intent not to
8 sell them as advertised;

9 (10) advertising goods or services with intent not to
10 supply a reasonable expectable public demand, unless the
11 advertisements disclosed a limitation of quantity;

12 (11) making false or misleading statements of fact
13 concerning the reasons for, existence of, or amount of price
14 reductions;

15 (12) representing that an agreement confers or
16 involves rights, remedies, or obligations which it does not have or
17 involve, or which are prohibited by law;

18 (13) knowingly making false or misleading statements
19 of fact concerning the need for parts, replacement, or repair
20 service;

21 (14) misrepresenting the authority of a salesman,
22 representative or agent to negotiate the final terms of a consumer
23 transaction;

24 (15) basing a charge for the repair of any item in
25 whole or in part on a guaranty or warranty instead of on the value of
26 the actual repairs made or work to be performed on the item without
27 stating separately the charges for the work and the charge for the

1 warranty or guaranty, if any;

2 (16) disconnecting, turning back, or resetting the
3 odometer of any motor vehicle so as to reduce the number of miles
4 indicated on the odometer gauge;

5 (17) advertising of any sale by fraudulently
6 representing that a person is going out of business;

7 (18) advertising, selling, or distributing a card
8 which purports to be a prescription drug identification card issued
9 under Section [4151.152](#), Insurance Code, in accordance with rules
10 adopted by the commissioner of insurance, which offers a discount
11 on the purchase of health care goods or services from a third party
12 provider, and which is not evidence of insurance coverage, unless:

13 (A) the discount is authorized under an agreement
14 between the seller of the card and the provider of those goods and
15 services or the discount or card is offered to members of the
16 seller;

17 (B) the seller does not represent that the card
18 provides insurance coverage of any kind; and

19 (C) the discount is not false, misleading, or
20 deceptive;

21 (19) using or employing a chain referral sales plan in
22 connection with the sale or offer to sell of goods, merchandise, or
23 anything of value, which uses the sales technique, plan,
24 arrangement, or agreement in which the buyer or prospective buyer
25 is offered the opportunity to purchase merchandise or goods and in
26 connection with the purchase receives the seller's promise or
27 representation that the buyer shall have the right to receive

1 compensation or consideration in any form for furnishing to the
2 seller the names of other prospective buyers if receipt of the
3 compensation or consideration is contingent upon the occurrence of
4 an event subsequent to the time the buyer purchases the merchandise
5 or goods;

6 (20) representing that a guaranty or warranty confers
7 or involves rights or remedies which it does not have or involve,
8 provided, however, that nothing in this subchapter shall be
9 construed to expand the implied warranty of merchantability as
10 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
11 2A.216 to involve obligations in excess of those which are
12 appropriate to the goods;

13 (21) promoting a pyramid promotional scheme, as
14 defined by Section 17.461;

15 (22) representing that work or services have been
16 performed on, or parts replaced in, goods when the work or services
17 were not performed or the parts replaced;

18 (23) filing suit founded upon a written contractual
19 obligation of and signed by the defendant to pay money arising out
20 of or based on a consumer transaction for goods, services, loans, or
21 extensions of credit intended primarily for personal, family,
22 household, or agricultural use in any county other than in the
23 county in which the defendant resides at the time of the
24 commencement of the action or in the county in which the defendant
25 in fact signed the contract; provided, however, that a violation of
26 this subsection shall not occur where it is shown by the person
27 filing such suit that the person neither knew or had reason to know

1 that the county in which such suit was filed was neither the county
2 in which the defendant resides at the commencement of the suit nor
3 the county in which the defendant in fact signed the contract;

4 (24) failing to disclose information concerning goods
5 or services which was known at the time of the transaction if such
6 failure to disclose such information was intended to induce the
7 consumer into a transaction into which the consumer would not have
8 entered had the information been disclosed;

9 (25) using the term "corporation," "incorporated," or
10 an abbreviation of either of those terms in the name of a business
11 entity that is not incorporated under the laws of this state or
12 another jurisdiction;

13 (26) selling, offering to sell, or illegally promoting
14 an annuity contract under Chapter 22, Acts of the 57th Legislature,
15 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
16 Statutes), with the intent that the annuity contract will be the
17 subject of a salary reduction agreement, as defined by that Act, if
18 the annuity contract is not an eligible qualified investment under
19 that Act;

20 (27) subject to Section 17.4625, taking advantage of a
21 disaster declared by the governor under Chapter 418, Government
22 Code, or by the president of the United States by:

23 (A) selling or leasing fuel, food, medicine,
24 lodging, building materials, construction tools, or another
25 necessity at an exorbitant or excessive price; or

26 (B) demanding an exorbitant or excessive price in
27 connection with the sale or lease of fuel, food, medicine, lodging,

1 building materials, construction tools, or another necessity;

2 (28) using the translation into a foreign language of
3 a title or other word, including "attorney," "immigration
4 consultant," "immigration expert," "lawyer," "licensed," "notary,"
5 and "notary public," in any written or electronic material,
6 including an advertisement, a business card, a letterhead,
7 stationery, a website, or an online video, in reference to a person
8 who is not an attorney in order to imply that the person is
9 authorized to practice law in the United States;

10 (29) delivering or distributing a solicitation in
11 connection with a good or service that:

12 (A) represents that the solicitation is sent on
13 behalf of a governmental entity when it is not; or

14 (B) resembles a governmental notice or form that
15 represents or implies that a criminal penalty may be imposed if the
16 recipient does not remit payment for the good or service;

17 (30) delivering or distributing a solicitation in
18 connection with a good or service that resembles a check or other
19 negotiable instrument or invoice, unless the portion of the
20 solicitation that resembles a check or other negotiable instrument
21 or invoice includes the following notice, clearly and conspicuously
22 printed in at least 18-point type:

23 "SPECIMEN-NON-NEGOTIABLE";

24 (31) in the production, sale, distribution, or
25 promotion of a synthetic substance that produces and is intended to
26 produce an effect when consumed or ingested similar to, or in excess
27 of, the effect of a controlled substance or controlled substance

analogue, as those terms are defined by Section 481.002, Health and Safety Code:

(A) making a deceptive representation or designation about the synthetic substance; or

(B) causing confusion or misunderstanding as to the effects the synthetic substance causes when consumed or ingested;

(32) a licensed public insurance adjuster directly or indirectly soliciting employment, as defined by Section 38.01, Penal Code, for an attorney, or a licensed public insurance adjuster entering into a contract with an insured for the primary purpose of referring the insured to an attorney without the intent to actually perform the services customarily provided by a licensed public insurance adjuster, provided that this subdivision may not be construed to prohibit a licensed public insurance adjuster from recommending a particular attorney to an insured;

(33) owning, operating, maintaining, or advertising a massage establishment, as defined by Section 455.001, Occupations Code, that:

(A) is not appropriately licensed under Chapter 455, Occupations Code, or is not in compliance with the applicable licensing and other requirements of that chapter; or

(B) is not in compliance with an applicable local ordinance relating to the licensing or regulation of massage establishments; ~~or~~

(34) a warrantor of a vehicle protection product warranty using, in connection with the product, a name that

includes "casualty," "surety," "insurance," "mutual," or any other word descriptive of an insurance business, including property or casualty insurance, or a surety business; or

(35) selling or offering for sale as an electric bicycle a vehicle equipped with an electric motor for propulsion that:

(A) is not an "electric bicycle" as defined by Section 664.001, Transportation Code; or

(B) is identified by the seller as:

(i) a Class 1 electric bicycle and is not a "Class 1 electric bicycle" as defined by Section 664.001, Transportation Code;

(ii) a Class 2 electric bicycle and is not a "Class 2 electric bicycle" as defined by Section 664.001, Transportation Code; or

(iii) a Class 3 electric bicycle and is not a "Class 3 electric bicycle" as defined by Section 664.001, Transportation Code.

SECTION 2. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.024 to read as follows:

Sec. 13.024. OPERATION OF ELECTRIC BICYCLE IN STATE PARK.

(a) In this section:

(1) "Bicycle" has the meaning assigned by Section 541.201, Transportation Code.

(2) "Class 1 electric bicycle," "Class 2 electric bicycle," "Class 3 electric bicycle," and "electric bicycle" have the meanings assigned to those terms by Section 664.001,

Transportation Code.

(b) Notwithstanding any other law and subject to Subsection (c), a person may operate in a state park or on public land under the department's jurisdiction a Class 1, Class 2, or Class 3 electric bicycle in an area where the operation of a bicycle solely under human power is authorized.

(c) A person may not operate a Class 2 or Class 3 electric bicycle on a natural-surface singletrack trail.

(d) The commission by rule may authorize the operation of an electric bicycle of any class in a state park or on public land under the department's jurisdiction, provided that the commission may not authorize the operation of an electric bicycle in any location where operation of a bicycle solely under human power is prohibited.

SECTION 3. Subchapter B, Chapter 551, Transportation Code, is amended by adding Section 551.108 to read as follows:

Sec. 551.108. OPERATION OF ELECTRIC BICYCLE ON PUBLIC LAND UNDER STATE AGENCY OR POLITICAL SUBDIVISION JURISDICTION. Notwithstanding any other law, a state agency or a political subdivision of this state may regulate the operation of an electric bicycle on a path or trail on public land under the state agency's or political subdivision's jurisdiction.

SECTION 4. Section 664.001(4), Transportation Code, is amended to read as follows:

(4) "Electric bicycle" means a bicycle [+

~~(A)~~] equipped with [+

~~(i)~~] fully operable pedals [+]

1 ~~[(ii)]~~ an electric motor of fewer than 750
2 watts and having~~[, and~~

3 ~~[(B) with]~~ a top assisted speed of 28 miles per
4 hour or less. The term does not include a bicycle that:

5 (A) fails to satisfy one or more of the
6 requirements under Section 17.46(b), Business & Commerce Code, for
7 an electric bicycle to be sold or offered for sale;

8 (B) has one or more operating modes, is equipped
9 with a throttle, and is capable of exceeding 20 miles per hour on
10 motorized propulsion alone in any mode when the throttle is
11 engaged; or

12 (C) has been configured or modified by any person
13 or is designed, manufactured, or intended by the manufacturer,
14 importer, or seller to be so configured or modified, to exceed any
15 required power or speed restriction if the operator engages:

16 (i) a mechanical switch or button;

17 (ii) a modification to the software
18 controlling the bicycle's electric drive system;

19 (iii) an application; or

20 (iv) any means intended by the
21 manufacturer, importer, or seller to modify the vehicle or allow
22 the vehicle to be modified to exceed any required power or speed
23 restriction.

24 SECTION 5. The changes in law made by this Act to Section
25 17.46(b), Business & Commerce Code, apply only to an act or practice
26 that occurs on or after the effective date of this Act. An act or
27 practice that occurs before the effective date of this Act is

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1 governed by the law in effect on the date the act or practice
2 occurred, and the former law is continued in effect for that
3 purpose.

4 SECTION 6. This Act takes effect September 1, 2025.