
DIGEST

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Trahan

HB No. 109

Abstract: Makes various changes to the Unfair Trade Practices and Consumer Protection law.

Present law provides for the Governor's Consumer Protection Division and assigns it certain powers and duties. Further provides that the executive assistant to the governor in charge of consumer affairs shall be the director of the division and provides that the director shall have the duty to administer and enforce the Unfair Trade Practices and Consumer Protection Law.

Proposed law replaces the Governor's Consumer Protection Division with the consumer protection section of the public protection division in the Department of Justice.

Proposed law provides that the attorney general, not the executive assistant to the governor in charge of consumer affairs, shall have the responsibility to administer and enforce the Unfair Trade Practices and Consumer Protection Law.

Present law provides for actions for injunctive relief against persons who violate the provisions of the Unfair Trade Practices and Consumer Protection Law.

Proposed law provides that if any person engages in any method, act, or practice declared unlawful under the Unfair Trade Practices and Consumer Protection Law and the violation was committed against a person aged 65 or over, a district court may impose an additional penalty not to exceed \$5,000 for each violation. Further provides several factors for the court to consider when deciding to assess such a penalty.

Present law allows a court to issue additional orders against any party as may be necessary to compensate any aggrieved person for any property which may have been acquired by violations of the Unfair Trade Practices and Consumer Protection Law.

Proposed law clarifies that such orders shall include but not be limited to appointment of a receiver, dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this state, and restitution.

Present law provides that when the attorney general has evidence that a person has engaged in or is engaged in any method, act, or practice declared to be unlawful under Unfair Trade Practices and Consumer Protection Law and he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in or is engaging in any act or practice declared to be unlawful, he causes an investigative demand or an investigative subpoena for deposition testimony to be served upon any person who is believed to have information, documentary material, or physical evidence relevant to the alleged or suspected violation.

Proposed law clarifies that the service provided for in present law may be accomplished by the sheriff or a post-certified commissioned law enforcement officer employed by the attorney general or through long-arm to a foreign corporation.

Present law provides that, in addition to remedies for contempt of court otherwise provided by law, any person who violates the terms of an injunction issued under R.S. 51:1407 or 1408, may be required to pay to the state treasurer a civil penalty of not more than \$5,000 per violation.

Proposed law provides that any person who violates the terms of an assurance of voluntary compliance as authorized under R.S. 51:1410 may also be required to pay the civil penalty required by present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 51:1402, 1404, 1405(B) and (C), 1406(3), 1407, 1408, 1409(A), (B), and (D), 1410, 1411(A) and (C), 1412(A) and (C), 1416, and 1417)