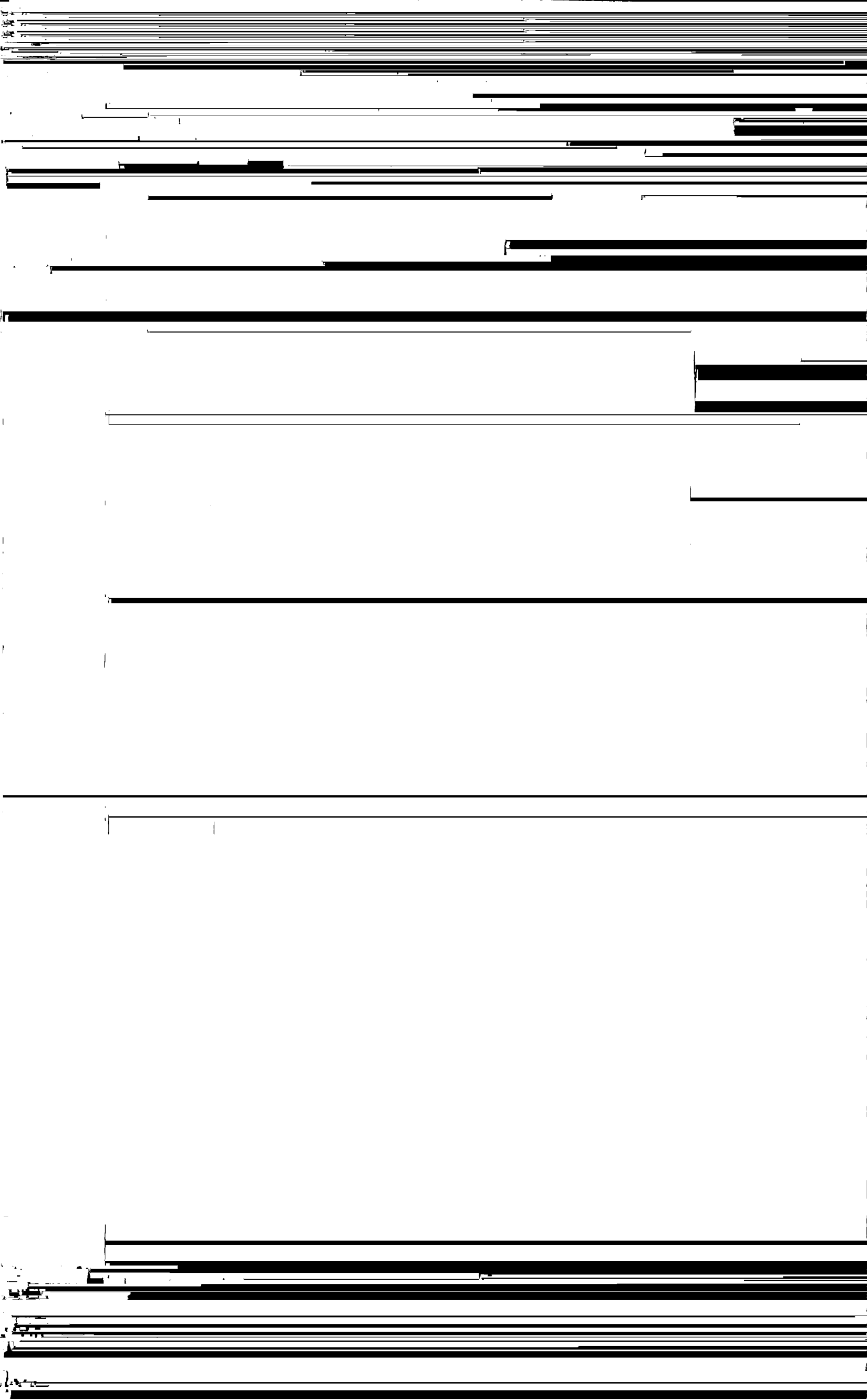
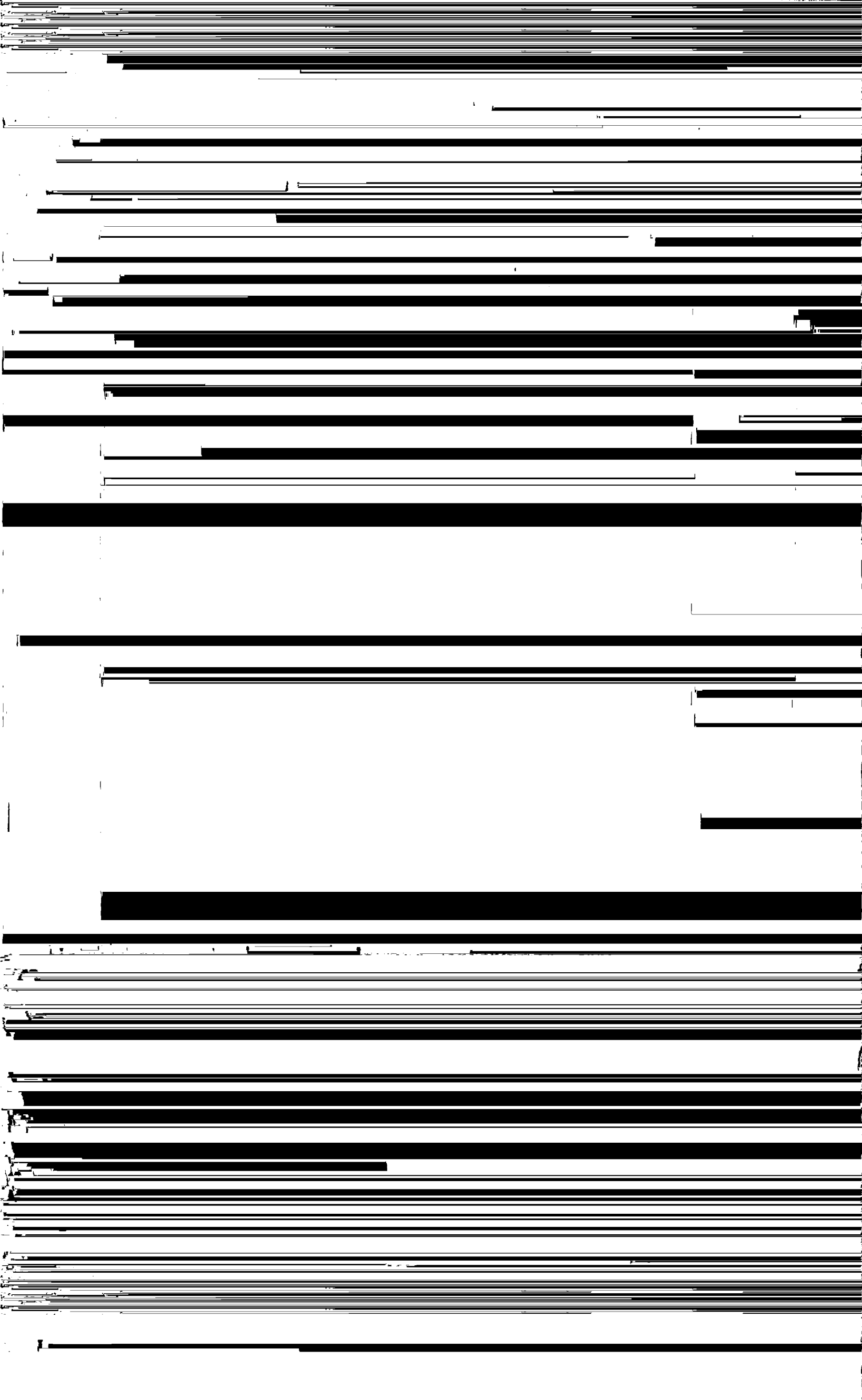


By Parker Nelson Temple - Jones El Paso H. B. No. 417

1 purposes, which are to protect consumers against false, misleading,
2 and deceptive business practices, unconscionable actions, and





1 representative or agent to negotiate the final terms of a consumer

"(c) It is the intent of the legislature that in construing

1 "(3) make available for public inspection all

"(e) The hearing shall be opened to the public and any

1 or denying of a hearing may be invalidated only if it is found
2 that it:

3 "(1) violates a constitutional or state statutory

1 of business, is doing business, or in the district court of the
2 county where the transaction occurred or any substantial portion

1 under this section shall forfeit and pay to the state a civil

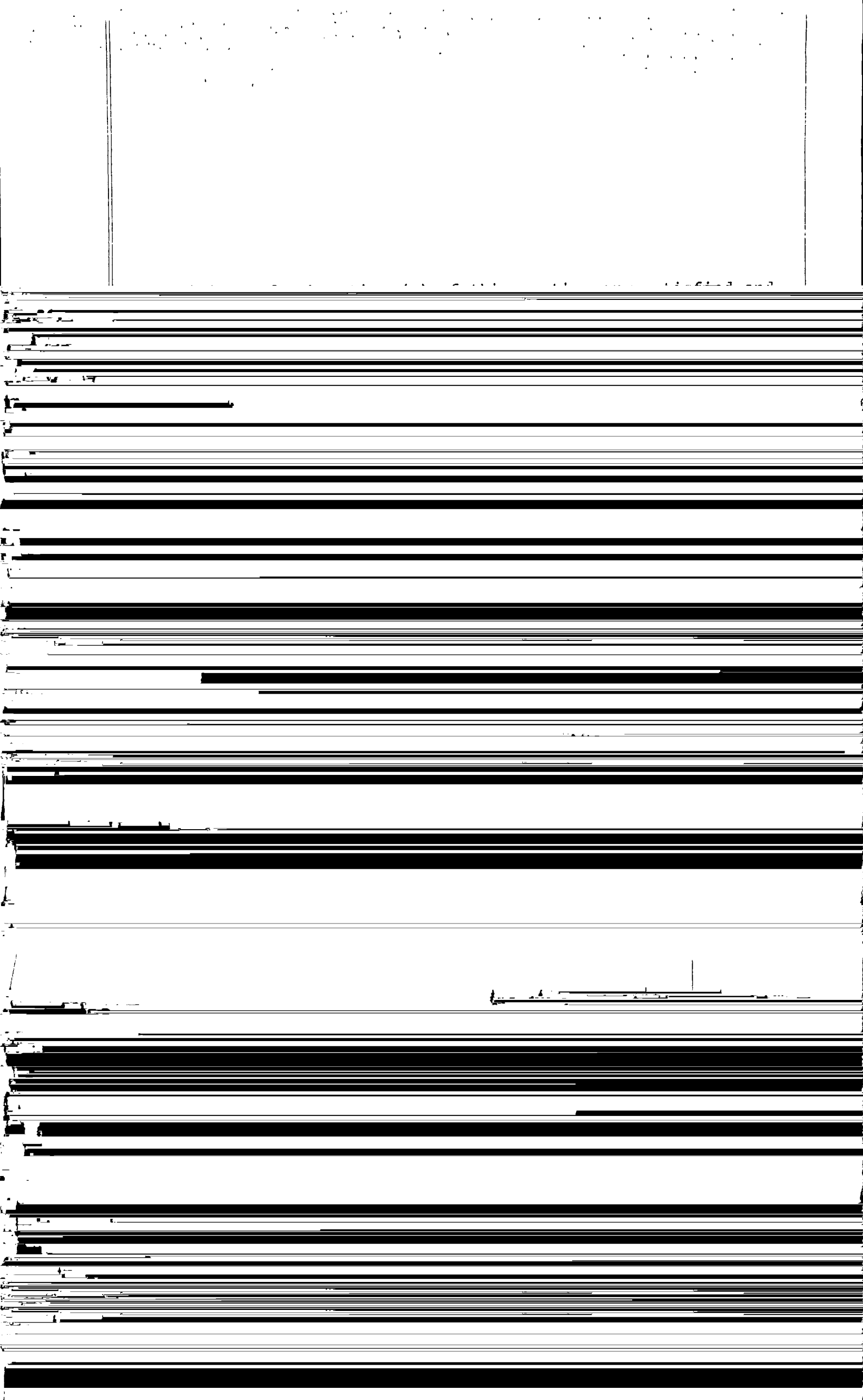
1 under this subchapter. If an action is prosecuted by a district,

1 act or practice is false, misleading, or deceptive by this

1 suit any money or property, real or personal, which may have been

1 damages;

2 "(2) an order enjoining the act or failure to act;



1 concerning the controversy already commenced by or against members
2 of the class;

1

"(3) any member who does not request exclusion. if

1 the opportunity of members to signify whether they consider the

Subsection (a) of this section. Not less than 30 days after the

1 against the seller plus attorneys' fees on a showing that:



- 1 act or practice which violates this subchapter or regulations
- 2 issued under this subchapter from any person who is engaging in.

"Sec. 17.61. POWERS OF RECEIVER. (a) When a receiver is

1 money, credit, real, personal, or mixed property, or any other
2 thing of substantial value with the expectation of sharing in the
3 profits of the enterprise; and

4 "(2) had knowledge or should have had knowledge of

1 impound any sample of merchandise that is produced in accordance

1 under Rule 26 of the Federal Rules of Civil Procedure.

2 "(d) Service of any demand may be made by:

1 and copying by the person who produced the material or any duly

1 other means falsifies any documentary material or merchandise or

1 Texas Civil Statutes), is repealed.

2 Sec. 3. If any provision of this Act or the application

COMMITTEE REPORT

Date

4-4-73

HONORABLE PRICE DANIEL, JR.
Speaker of the House of Representatives.

Sir:

We your Committee on

Business and Industry

, to whom was

BILL ANALYSIS

Background Information and Purpose of this Bill: The bill originated in

Section 17.49: Specific exemptions from this Act include newspaper,

to the extent of the unsatisfied consumer claim. If they were a part of

had knowledge or should have had knowledge of the unlawful purpose of
the enterprise at the time such things of value were contributed. or

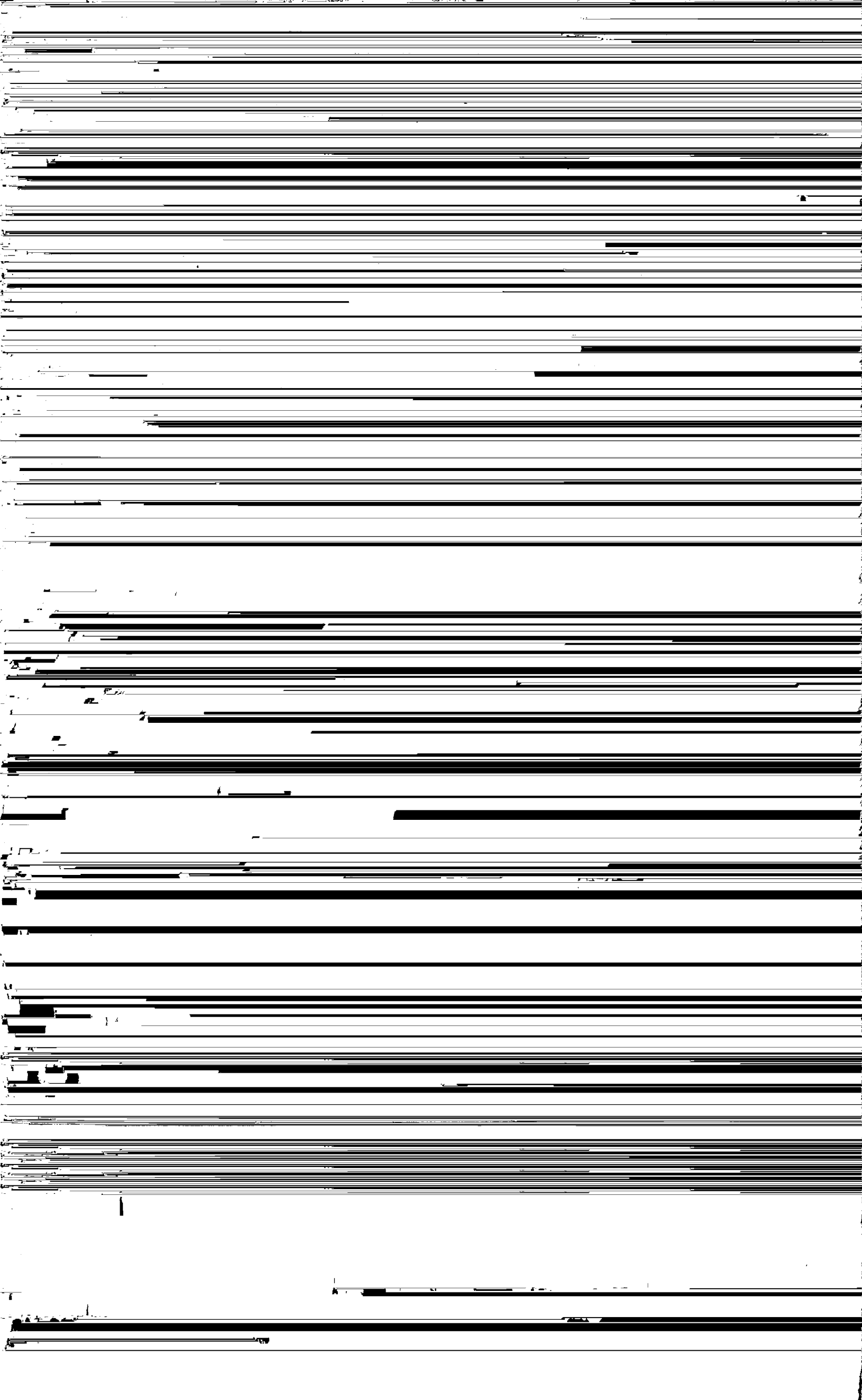
knowledge of the unlawful purpose of the enterprise. then they are also

subject to this Act.

Sec. 2. (6) Amends Section 7.

Article 2121 as follows:

~~State of Ohio~~ ~~County of~~ ~~City of~~



(7)

Hali

③

Amendment by Geiger

See P. D. H. P. D. H. P. D. H.

①

1. *London*

"(2) "Services" means work, labor, and services for

17 46 DECEPTIVE TRADE PRACTICES UNLAWFUL. (a)

of any trade or commerce are hereby declared unlawful.

"(b) 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

"(8) disparaging the goods, services, or business

"(17) advertising of any sale by fraudulently representing

'(18) using or employing a chain referral sales plan

in connection with the sale or offer to sell of goods merchandise

arrangement. or agreement in which the buyer or prospective buyer

practice declared to be unlawful by this subchapter, and that proceedings would be in the public interest, the division may bring an action in the name of the state against the person to restrain by temporary or permanent injunction the use of such

Nothing herein shall require the

"(c) In addition to the request for a temporary or permanent injunction in a proceeding brought under subsection (a) ...

section, the consumer protection division, on a finding by the court that the defendant has engaged or is engaging in a practice declared to be unlawful by this subsection ...

"(d) The court may make such additional order or judgments
as are necessary to compensate identifiable persons for actual

"Sec. 17.48. DUTY OF DISTRICT AND COUNTY ATTORNEY. (a)

It is the duty of the district and county attorneys to lend to the consumer protection division any assistance requested in the

"(3) punitive damages;

"(4) orders necessary to restore to any party to the

suit any money or property, real or personal, which may have been

acquired in violation of this subchapter; and

"(5) any other relief which the court deems proper.

"(b) A plaintiff who prevails on a class action under this

"(1) the class is so numerous that joinder of all

"(A) the interest of members of the class in
individually controlling the prosecution or defense of separate

actions;

"(B) the extent and nature of any litigation

25-4-1-1

"(3) any member who does not request exclusion. if

"(3) imposing conditions on the representative [REDACTED]

or on intervenors;

eliminate allegations as to representation of [REDACTED]

that the action proceed accordingly; or

"(d) No damages may be awarded to a consumer class under this section if within 30 days of receipt of the notice the in-

"(2) made restitution of any consideration received

from any member of the class.

"Sec. 17.55. PROMOTIONAL MATERIAL. If damages or civil

penalties are assessed against the seller of goods or services

"Sec. 17.58. VOLUNTARY COMPLIANCE. (a) In the
administration of this subchapter the consumer protection division

may accept assurance of voluntary compliance with respect to any

lands: tenements. books. records. documents, papers, choses in

by means of any practice declared to be illegal and prohibited

Sec. 17.60. REPORTS AND EXAMINATIONS. Whenever the

consumer protection division has reason to believe that a person

documentary material relevant to the subject matter of an inves-

tigation of a possible violation of this subchapter an authorized



'(g) At any time before the return date specified in the demand, or within 20 days after the demand has been served, if the time specified is shorter, a petition to extend the return date

serve on the person, a petition for an order of the court for

of Insurance Commissioners notwithstanding any previous defini-

'(f) The action of the Board in adopting, amending, repeal-

'(b) Until a petition appealing from such order shall have _____

finding by the Board that the aggrieved person had been

or practice in violation of this article, rules or regulations.

(c) Compliance or attempts to comply with the Board's

Commerce Code, this Article, or rules or regulations issued under
this Article, may request a civil penalty of not more than \$2,000

to be unfair methods of competition and unfair and deceptive

'(b) A plaintiff who prevails in a class action under this section may recover:

'(1) court costs and attorneys' fees reasonable in

'(b) An action may be maintained as a class action if the

'(D) the difficulties likely to be encountered
in the management of a class action.

'(c) In construing this section, the courts of Texas shall

or a class may be divided into subclasses and each subclass treated
as a class and the provisions of this section shall be construed

bringing of a suit as a class action does not affect the ability of an individual to bring the same or a similar suit under Section 16 of this Article. [REDACTED]

'Sec. 19. Preliminary Notice. (a) At least 30 days prior to the commencement of a class action suit for damages under [REDACTED]

this Article or regulations issued under this Article or any

assessed or awarded as provided in this Article shall be

By: Parker of Jefferson, Temple, et al

H.B. No. 417

A BILL TO BE ENTITLED

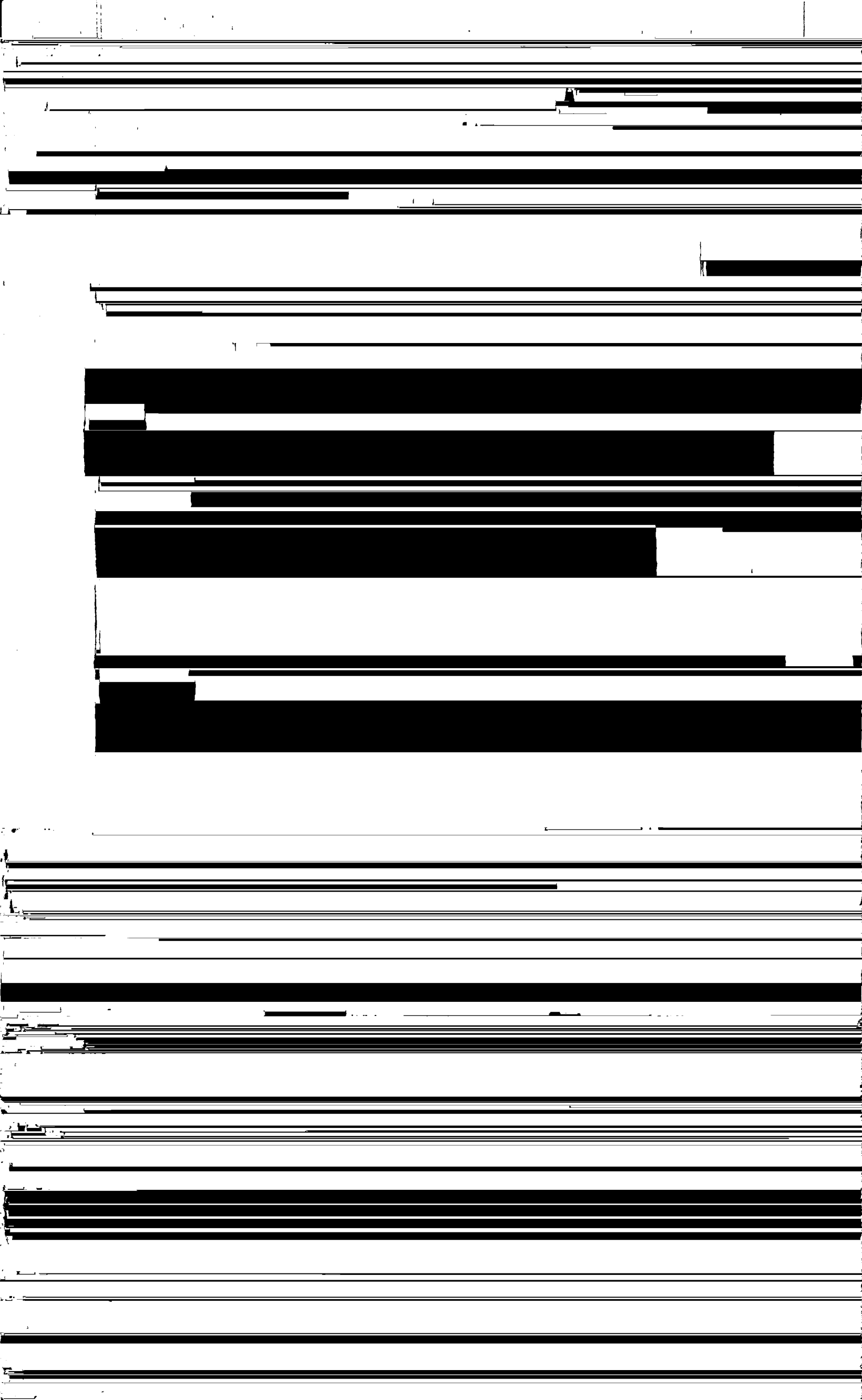
AN ACT

1

2

relating to the definition and regulation of unlawful trade, acts

H.B. No. 417



H.B. No. 417

1 affiliations, connection, or association with, or certification

H.B. No. 417

1 involves rights, remedies, or obligations which it does not have

H.B. No. 417

1 seller the names of other prospective buyers if receipt of the

H.B. No. 417

H.B. No. 417

H.B. No. 417

1 restrained. Damages may not include any damages incurred beyond

H.B. No. 417

1

"Sec. 17.48. DUTY OF DISTRICT AND COUNTY ATTORNEY. (a)

H.B. No. 417

H.B. No. 417

H.B. No. 417

H.B. No. 417

1 which may have been acquired in violation of this subchapter; and

H.B. No. 417

H.B. No. 417

1 questions affecting only individual members, and that a class

H.B. No. 417

1 "(e) If the action is permitted as a class action, the
2 court shall direct to the members of the class the best notice

H.B. No. 417

1

"(j) In the conduct of a class action the court may make

H.B. No. 417

1 prior to the commencement of a suit for damages under Section

H.B. No. 417

1

"(2) all consumers so identified have been notified

H.B. No. 417

H.B. No. 417

1 100 miles of the courthouse of a county in which the suit could

H.R. No. 417

H.B. No. 417

H. B. No. 417

H.B. No. 417

1 of Insurance unless the State Board of Insurance or the Insurance

H.B. No. 417

1

"(3) mailing by registered mail or certified mail

H.B. No. 417

1 "(g) At any time before the return date specified in the
2 demand, or within 20 days after the demand has been served,

H.B. No. 417

H.B. No. 417

1

"Sec. 13. Rules and Regulations. (a) The State Board of

H.B. No. 417

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"(5) is made on unlawful procedure; or

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H.B. No. 417

H.B. No. 417

H.B. No. 417

H.B. No. 417

1 petition for recovery of civil penalties under this section.

H.B. No. 417

1 of harassment, the Court may award to the defendant reasonable

H.B. No. 417

1 reasonable attorneys' fees in relation to the work expended, court

H.B. No. 417

1

"(A) inconsistent or varving adjudications

H.B. No. 417

1 controversy concentrating the litigation of the claims in the

H.B. No. 417

H.B. No. 417

1 representation fair and adequate, to intervene and present claims

H.B. No. 417

1

"(c) An action for injunctive relief under Section 17 of

H.B. No. 417

"(a) Attempts to comply with the provisions of this section

H.B. No. 417

H.B. No. 417

H.B. No. 417

1 condition of the calendars in both houses create an emergency and

MAY 11 1973

ENROLLED

H.B. No. 417

1

AN ACT

2

relating to the definition and regulation of deceptive and unlawful

H.B. No. 417

1 this subchapter, are not exclusive. The remedies provided in this

H.B. No. 417

1 wherever situated, and shall include any trade or commerce directly

H.B. No. 417

- 1 "(4) using deceptive representations or designations
- 2 of geographic origin in connection with goods or services;
- 3 "(5) representing that goods or services have

H.B. No. 417

1

"(13) knowingly making false or misleading statements

H.B. No. 417

1 of an event subsequent to the time the buver purchases the

H.B. No. 417

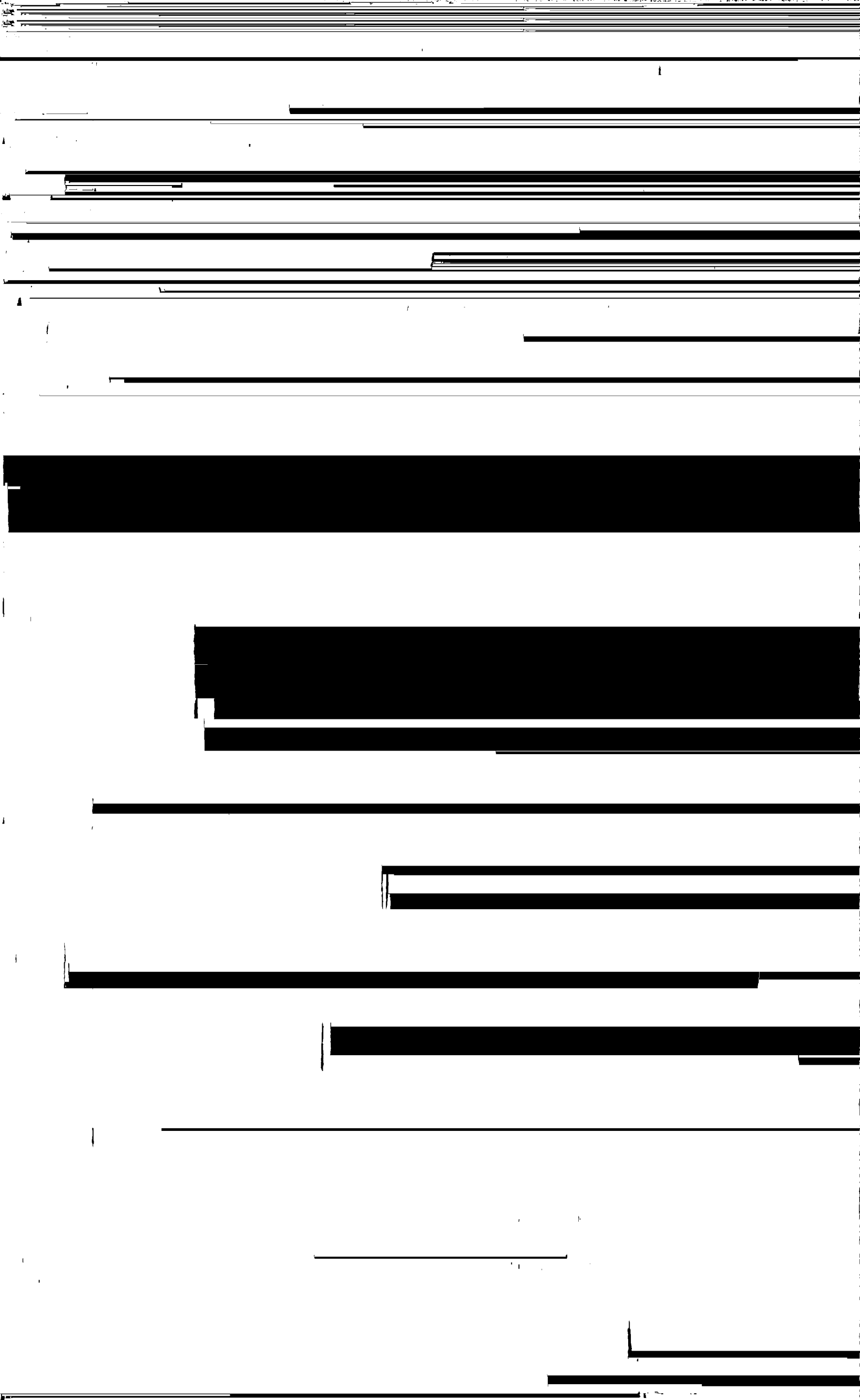
1 consumer protection division has reason to believe that any person

H.B. No. 417

1 prior contact were made or that such person would destroy relevant

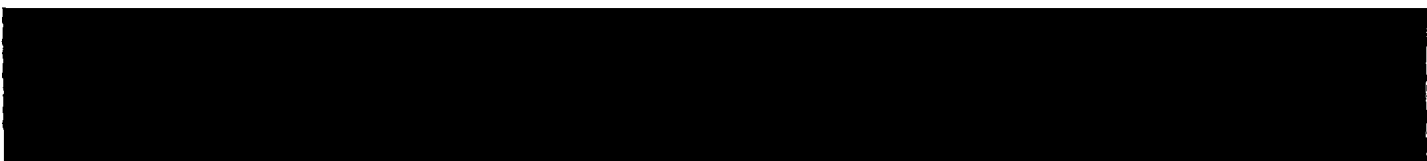
H.B. No. 417

1 person who has been ordered by a court to make restitution under
2 this section has failed to do so within three months after the
3 order to make restitution has become final and nonappealable.



H.B. No. 417

1 substantial financial interest in the sale or distribution of the
2 unlawfully advertised good or service. Financial interest as





H.B. No. 417

1. been damaged in an amount in excess of \$10 by an unlawful method,

H.B. No. 417

1 has not been satisfied within six months of the date of issuance

H.B. No. 417

1 adequately protect the interests of the class.

H.B. No. 417

1 individually controlling the prosecution or defense of separate

H.B. No. 417

1

"(1) the court will exclude the member notified from

H.B. No. 417

1 "(2) requiring, for the protection of the members
2 of the class or otherwise for the fair conduct of the action,

H.B. No. 417

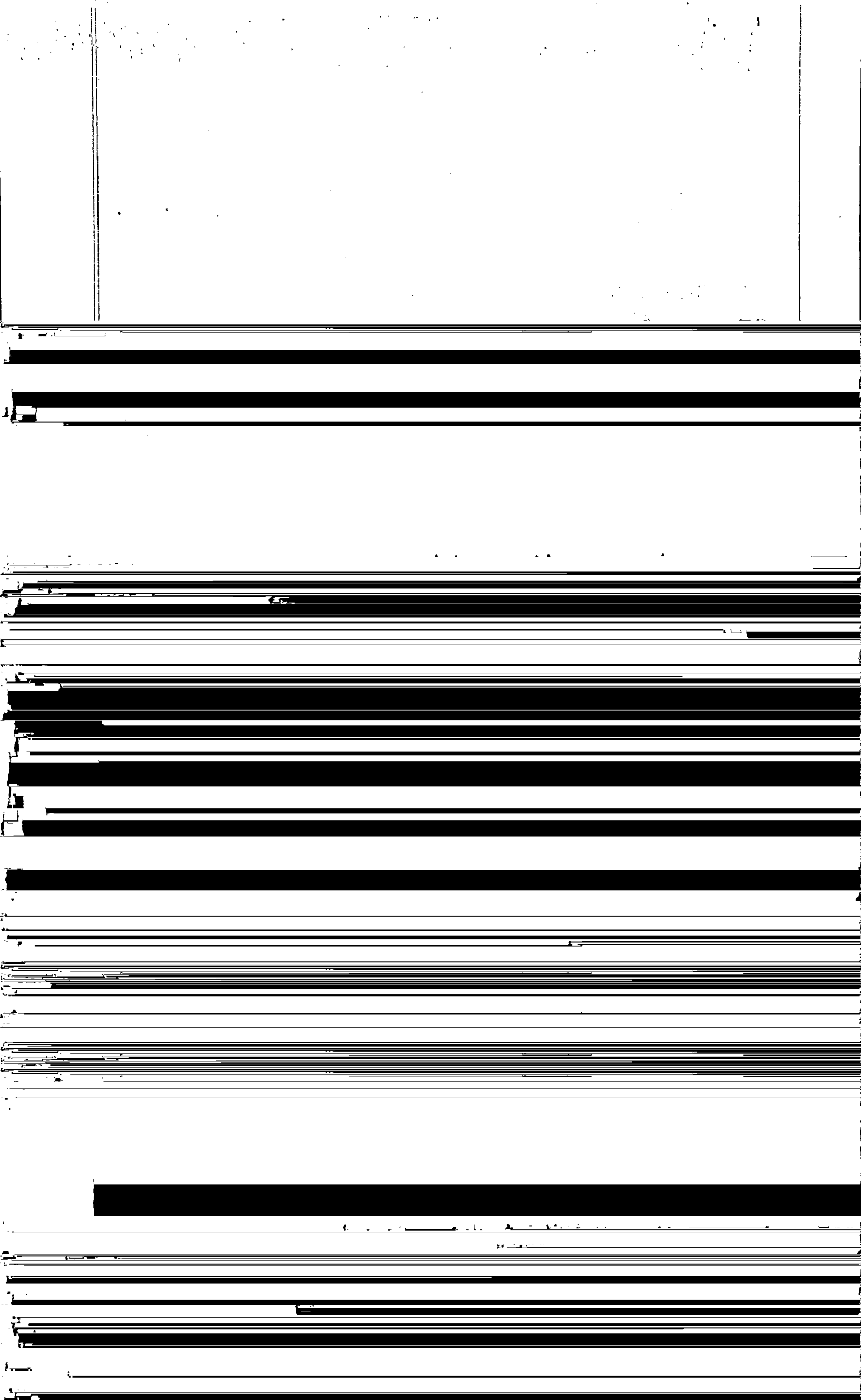
1 or registered mail, return receipt requested, to the place where
2 the transaction occurred, the intended defendants' principal place
3 of business in this state, or if neither will effect notice, to

H.B. No. 417

1 members of the class;

2 "(3) the relief being afforded the consumer has been,

3 or if said offer is accepted by the consumer, will be given within



H.B. No. 417

1 administration of this subchapter the consumer protection division

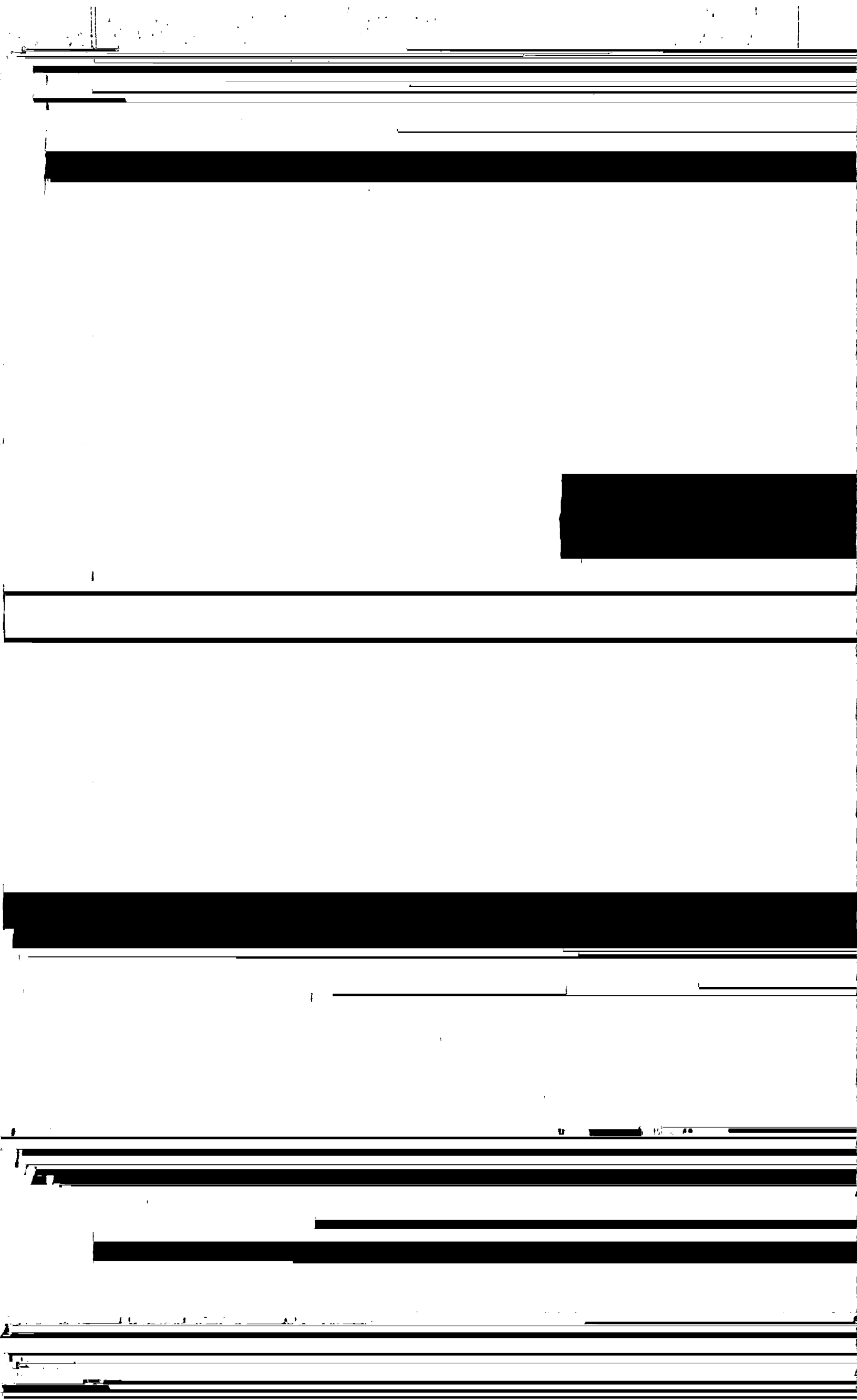
H.B. No. 417

1 "Section 17.59. POWERS OF RECEIVER. (a) When a receiver
2 is appointed by the court under this subchapter, he shall have
3 the power to sue for, collect, receive, and take into his
4 possession all the goods and chattels, rights and credits, money,

H.B. No. 417

1

"(1) contributed substantial personal services,



H.B. No. 417

1 "(1) state the statute and section under which the
2 alleged violation is being investigated, and the general subject
3 matter of the investigation;

4 "(2) describe the class or classes of documentary

H.B. No. 417

1 office or place of business.

2 "(e) Documentary material demanded pursuant to this section

H.B. No. 417

1 may be filed in the district court in the county where the parties
2 reside, or a district court of Travis County.

H.B. No. 417

1 protection division may file in the district court in the county

H.B. No. 417

1 provision as is necessary in the accomplishment of the purposes

H.B. No. 417

1 any person may present testimony, data, or other information in

H.B. No. 417

1 submitted."

2 (b) Amend Section 7, Article 21.21, Texas Insurance Code,

H.B. No. 417

1 this section.

2 "(c) Any person who violates the terms of a cease and

H.B. No. 417

1 similarly situated were induced to purchase a policy of insurance
2 as a result of the insurer engaging in a method of competition,
3 not in accordance with the provisions of this article, rules or regulations

H.B. No. 417

1 an appropriate order to enforce such Board order. The Court may

H.B. No. 417

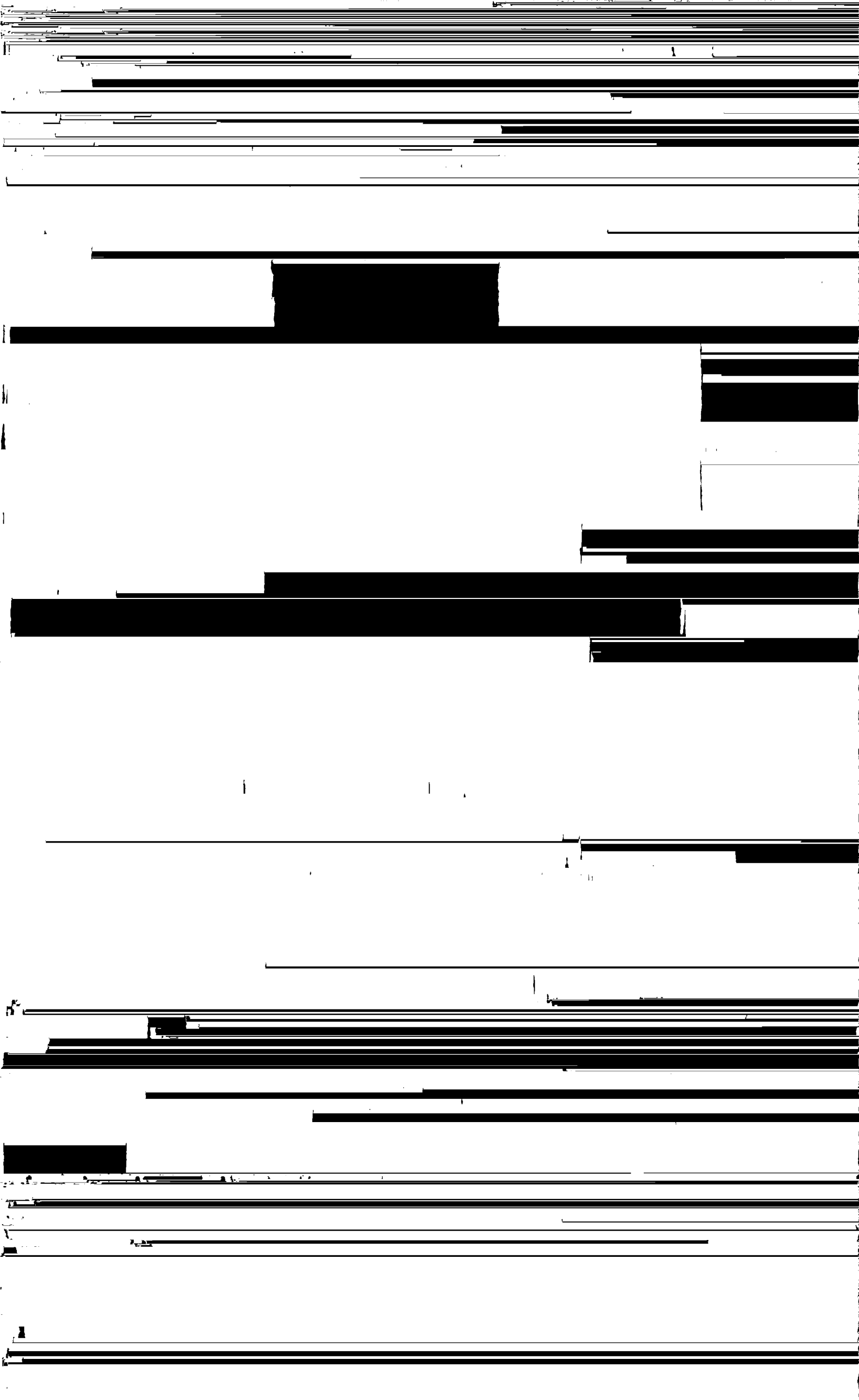
1 of the transaction occurred, or in a district court of Travis

H.B. No. 417

1 shall be continued, and in such cases, the Attorney General with

[REDACTED]

[REDACTED]



H.B. No. 417

1 for the purpose of harassment, the court may award to the defendant
2 reasonable attorneys' fees in relation to the work expended and

H.B. No. 417

1 individual members of the class would create a risk of:

H.B. No. 417

1

"(C) the desirability or undesirability of




H.B. No. 417

1 he desires, may enter an appearance through counsel.

2 "(g) A class action may not be dismissed, settled, or
3 compromised without the approval of the court, and notice of the
4 proposed dismissal, settlement, or compromise shall be given to

H.B. No. 417

1 the opportunity of members to signify whether they consider the



H.B. No. 417

1 the office of the Secretary of State of Texas.

H.B. No. 417

1 a stated reasonable time; and

H.B. No. 417

1 & Commerce Code, as amended, from any person who is engaging in,

H.B. No. 417

1 governed by the terms of the voluntary compliance.

2 "Section 23. Those civil penalties, premium refunds,

3 judgments, compensatory judgments, individual recoveries, orders,

H.B. No. 417

1 the Act which can be given effect without the invalid provision

H.B. No. 417

I hereby certify that H.B. No. 417 was passed by the Senate.



LUTHER JONES
P. O. BOX 2910
AUSTIN, TEXAS 78767

DISTRICT 72, PLACE 4
P. O. BOX 5391
EL PASO, TEXAS 79953

State of Texas
House of Representatives
Austin, Texas

COMMITTEES:
APPROPRIATIONS
INSURANCE
RULES

TO WHOM IT MAY CONCERN:

Luther Jones has my permission to co-sign House


Carl A. Parker



APR 12 1973 Received from the House

LEW