

## **BILL ANALYSIS**

Senate Research Center

H.B. 306  
By: Elkins (Ellis)  
Jurisprudence  
5-18-97  
Engrossed

### **DIGEST**

Currently, Texas law provides no statutes regarding interstate contractual transactions made over the Internet.

As proposed, H.B. 306 would provide that a contract made solely over the Internet between a person located in this state and a person located outside this state is governed by the law of this state unless otherwise agreed to by each party.

### **PURPOSE**

As proposed, H.B. 306 provides that a contract made solely over the Internet between a person located in this state and a person located outside this state is governed by the law of this state unless otherwise agreed to by each party.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 35, Business & Commerce Code, by adding Subchapter I, as follows:

#### **SUBCHAPTER I. INTERNET ACTIVITIES**

Sec. 35.961. DEFINITION. Defines "Internet."

Sec. 35.962. LAW APPLICABLE TO CONTRACT MADE OVER INTERNET. Provides that this section applies only to a contract, subject to Subsection (d), made solely over the Internet between a person located in this state and a person located outside this state who does not maintain an office or agent in this state for doing business in this state. Provides that a contract to which this section applies is governed by the law of this state except under certain conditions. Provides that a person asserting that the law of another state applies to a contract has the burden of proving that notice was given and agreement was obtained as provided by Subsection (b). Provides that Sections 1.105 and 35.53 do not apply to a contract to which this section applies. Provides that this section does not apply to a contract to which Section 35.51 applies.

Sec. 35.963. RECIPROCAL SUSPENSION OF STATE LAWS. Provides that except as provided by Section 35.962, if a person in another state transmits information into this state over the Internet or conducts an activity over the Internet in this state and the transmission or activity would violate a law of this state, the activity does not violate the law of this state under certain conditions.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.