

## 2nd Sub. H.B. 117 PATENT INFRINGEMENT AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 2

MARCH 11, 2014 12:41 PM

Senator **John L. Valentine** proposes the following amendments:

1. *Page 2, Lines 50 through 52:*

50           (2) "Target" means a person or entity residing in, incorporated in, or organized under  
51 the laws of this state that has received a demand letter and **includes** the customers, distributors and  
52 agents of the person or entity.

2. *Page 3, Lines 57 through 59:*

57           (1) A sponsor may not distribute a demand letter to a target that includes a bad faith  
58 assertion of patent infringement.  
59           (2) ~~{ A demand letter includes a bad faith assertion of patent infringement when }~~   **A court**  
**may consider the following factors as evidence in determining whether a sponsor has or has not**  
**distributed a demand letter containing a bad faith assertion of patent infringement, but no one factor may**  
**be considered conclusive as to whether a demand letter contains a bad faith assertion of patent**  
**infringement** .

3. *Page 3, Lines 66 through 73:*

66           (iv) the identification of at least one claim of each asserted patent that is allegedly  
67 infringed; ~~{ **and** }~~  
68           (v) for each claim identified in Subsection (2)(a)(iv), a description of one or more  
69 allegedly infringing products, including the make, model number, and other specific identifying  
70 indicia of allegedly infringing products, services or methods made, used, offered for sale, sold,  
71 imported or performed by the target, provided in sufficient detail to allow the target to assess  
72 the merits of the assertion of patent infringement; and  
73           ~~{ (iv) }~~   **(vi)** identification of each judicial or administrative proceeding pending as of the date

4. *Page 3, Lines 85 through 87:*

85           (v) an assertion that the amount of compensation demanded will increase if the target  
86 retains counsel to defend against the assertions in the demand letter or if the target does not pay  
87 the sponsor within a period of 60 days or less .  
**(vi) a false or misleading statement; or**  
**(vii) the demand letter demands payment of a license fee or response within an unreasonably short**  
**period of time depending on the number and complexity of the claims** .

5. Page 4, Lines 99 through 101:

99 (e) the sponsor is:  
100 (i) the inventor or joint inventor of the patent or the original assignee of the inventor or  
101 joint inventor , or an entity owned by or affiliated with the original assignee ; or

6. Page 4, Lines 115 through 118:

115 (2) The Attorney General may conduct civil investigations and bring civil actions  
116 pursuant to this part. In an action brought by the Attorney General under this part, the court  
117 may award or impose any relief it considers prudent, including ~~{, but not limited}~~ to the  
118 following:

7. Page 5, Lines 133 through 134:

133 (d) final resolution of actions brought under ~~{ the }~~ this part, including any recovery under  
134 Subsection (2).