

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bills 4644 and 4645 (as passed by the Senate)
Sponsor: Representative Paul Wojno (House Bill 4644)
Representative Rick Johnson (House Bill 4645)
House Committee: Insurance and Financial Services
Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 2-22-00

RATIONALE

Public Act 227 of 1971 prescribes the rights and duties of parties in a home solicitation sale, which is the sale of goods or services of more than \$25 in which the seller or a person acting for the seller engages in a personal, written, or telephonic solicitation of the sale, the solicitation is received by the buyer at his or her residence, and the buyer's agreement or offer to purchase is given there to the seller or the person acting for the seller. Under the Act, a buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase. Apparently, some marketers send couriers or other third parties to consumers' homes to pick up payments before the expiration of three-day cancellation period. Some people believe that this practice should be prohibited.

CONTENT

House Bills 4644 and 4645 would amend the Michigan Consumer Protection Act and Public Act 227 of 1971, respectively, to prohibit a seller from having an independent courier service or other third party pick up a buyer's payment before the end of the three-day period during which the buyer may cancel. The bills are tie-barred to each other.

House Bill 4644

The Michigan Consumer Protection Act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful, and describes activities that comprise such methods, acts, and practices. The bill would include in these activities having an independent courier service or other third party pick up a consumer's payment on a home solicitation sale during the period the consumer is entitled to cancel the sale under Public Act 227 of 1971.

House Bill 4645

Public Act 227 of 1971 provides that, in addition to any other right to revoke an offer, a buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase. The bill would prohibit the seller in a home solicitation sale from acquiring payment by having an independent courier service or other third party pick up the buyer's payment at his or her residence until after the buyer's right-to-revoke period had expired.

The bill also would incorporate this prohibition in the statement that must be included in the written agreement or offer to purchase that a seller must give to a buyer and have the buyer sign. Currently, the statement indicates the buyer's right to cancel the transaction within the three-day period.

MCL 445.903 (H.B. 4644)
445.112 & 445.113 (H.B. 4645)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Public Act 227 of 1971 provides protections from unscrupulous and high-pressure marketing tactics for consumers who participate in a home solicitation sale. For example, the Act provides for a three-day period, sometimes referred to as a “cooling-off” period, during which consumers may reflect on their purchases. If they change their minds during this time, they may rescind the purchase. In order to pressure, and often intimidate, consumers into completing a sale, some marketers reportedly use couriers or third parties to collect payments from buyers before the end of the three-day period. House Bill 4645 would add to the Act’s consumer protections a prohibition against marketers’ using couriers or third parties to pick up payments before the three days expires. In addition, House Bill 4644 would add this practice to other activities considered unfair, unconscionable, or deceptive methods, acts, or practices and unlawful under the Michigan Consumer Protection Act.

Legislative Analyst: L. Arasim

FISCAL IMPACT

Enforcement costs and fine revenue would depend on the number of violations under the proposed subsection (gg), of the Consumer Protection Act. In calendar year 1999, approximately 3,200 of the 14,030 formal written complaints filed with the Attorney General’s Consumer Protection Division were related to in-home sales.

Fiscal Analyst: B. Bowerman

H9900\4644a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.