

SENATE BILL No. 631

June 28, 2007, Introduced by Senator KAHN and referred to the Committee on Commerce and Tourism.

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
by amending section 5 (MCL 445.905), as amended by 2006 PA 508.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) If the attorney general has probable cause to
2 believe that a person has engaged, is engaging, or is about to
3 engage in a method, act, or practice that ~~is unlawful pursuant to~~
4 **VIOLATES** section 3, and gives notice ~~in accordance with~~**UNDER** this
5 section, the attorney general may bring an action ~~in accordance~~
6 ~~with principles of equity~~ to restrain the defendant by temporary or
7 permanent injunction from engaging in the method, act, or practice.
8 The action may be brought in the circuit court of the county where

1 the defendant is established or conducts business or, if the
2 defendant is not established in this state, in the circuit court of
3 Ingham county. The court may award costs to the prevailing party.
4 For A persistent and knowing violation of section 3, the court may
5 assess the defendant a civil fine of not more than \$25,000.00. For
6 a violation of section 3(1)(kk), each performance or production is
7 a separate violation.

8 (2) ALL OF THE FOLLOWING APPLY TO AN ACTION BY THE ATTORNEY
9 GENERAL UNDER SUBSECTION (1) FOR A VIOLATION OF SECTION 3(1)(Z) IN
10 CONNECTION WITH A RETAIL SALE OF MOTOR FUEL, AS DEFINED IN SECTION
11 4 OF THE MOTOR FUEL TAX ACT, 2000 PA 403, MCL 207.1004:

12 (A) FOR A VIOLATION OF SECTION 3(1)(Z), THE COURT MAY AWARD A
13 CIVIL FINE OF NOT MORE THAN \$1,500.00 FOR THE FIRST VIOLATION AND
14 \$3,000.00 FOR THE SECOND OR SUBSEQUENT VIOLATION. THE AVAILABILITY
15 OF A CIVIL FINE UNDER THIS SUBDIVISION IS IN ADDITION TO THE CIVIL
16 FINE AVAILABLE UNDER SUBSECTION (1) IF THE VIOLATION OF SECTION
17 3(1)(Z) IS A PERSISTENT AND KNOWING VIOLATION.

18 (B) A PERSON WHO PROVIDES INFORMATION THAT MATERIALLY
19 CONTRIBUTES TO THE IMPOSITION OF A CIVIL FINE OR FINES AGAINST A
20 PERSON, UNDER THIS SUBSECTION OR SUBSECTION (1), FOR A VIOLATION OF
21 SECTION 3(1)(Z) IN CONNECTION WITH THAT RETAIL SALE OF MOTOR FUEL
22 SHALL BE PAID A REWARD. ALL OF THE FOLLOWING APPLY TO A REWARD
23 UNDER THIS SUBDIVISION:

24 (i) THE REWARD SHALL BE PAID PURSUANT TO RULES ADOPTED BY THE
25 ATTORNEY GENERAL UNDER SUBPARAGRAPH (vii).

26 (ii) THE AMOUNT OF THE REWARD SHALL NOT EXCEED 50% OF THE CIVIL
27 FINE OR FINES ASSESSED FOR THE VIOLATION.

1 (iii) A PERSON IS NOT ELIGIBLE FOR A REWARD UNDER THIS
2 SUBDIVISION FOR A VIOLATION PREVIOUSLY KNOWN TO THE ATTORNEY
3 GENERAL UNLESS THE INFORMATION MATERIALLY CONTRIBUTES TO THE
4 ASSESSMENT OF THE CIVIL FINE OR FINES.

5 (iv) IF THERE IS MORE THAN 1 PERSON WHO PROVIDES INFORMATION
6 PURSUANT TO THIS SUBDIVISION FOR A SINGLE VIOLATION, THE FIRST
7 PERSON TO NOTIFY THE ATTORNEY GENERAL IS ELIGIBLE FOR THE REWARD.
8 IF MORE THAN 1 NOTIFICATION IS RECEIVED ON THE SAME DAY, THE REWARD
9 SHALL BE DIVIDED EQUALLY AMONG THOSE PERSONS PROVIDING THE
10 INFORMATION.

11 (v) PUBLIC OFFICERS AND EMPLOYEES OF ANY LOCAL, STATE, OR
12 FEDERAL GOVERNMENTAL ENTITY ARE NOT ELIGIBLE FOR A REWARD UNDER
13 THIS SUBDIVISION UNLESS REPORTING THOSE VIOLATIONS DOES NOT RELATE
14 IN ANY MANNER TO THEIR RESPONSIBILITIES AS PUBLIC OFFICERS OR
15 EMPLOYEES.

16 (vi) AN EMPLOYEE OF A RETAIL SELLER OF MOTOR FUEL WHO PROVIDES
17 INFORMATION THAT THE SELLER VIOLATED SECTION 3(1)(Z) IS NOT
18 ELIGIBLE FOR A REWARD IF THE EMPLOYEE INTENTIONALLY CAUSED THE
19 VIOLATION.

20 (vii) THE ATTORNEY GENERAL SHALL PROMULGATE RULES THAT
21 ESTABLISH PROCEDURES FOR THE RECEIPT AND REVIEW OF CLAIMS FOR
22 PAYMENT OF REWARDS. ALL DECISIONS CONCERNING THE ELIGIBILITY FOR A
23 REWARD AND THE MATERIALITY OF THE PROVIDED INFORMATION SHALL BE
24 MADE PURSUANT TO THESE RULES.

25 (viii) THE ATTORNEY GENERAL SHALL PERIODICALLY PUBLICIZE THE
26 AVAILABILITY OF THE REWARDS PROVIDED FOR IN THIS SECTION TO THE
27 PUBLIC.

1 (ix) A PERSON MAY SUBMIT A CLAIM FOR A REWARD UNDER THIS
2 SUBDIVISION ONLY FOR INFORMATION PROVIDED ON OR AFTER THE EFFECTIVE
3 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION.

4 (3) ~~(2)~~—Unless waived by the court on good cause shown not
5 less than 10 days before the commencement of an action under this
6 section, the attorney general shall notify the person of his or her
7 intended action and give the person an opportunity to cease and
8 desist from the alleged unlawful method, act, or practice or to
9 confer with the attorney general in person, by counsel, or by other
10 representative as to the proposed action before the proposed filing
11 date. The notice may be given the person by mail, postage prepaid,
12 to his or her usual place of business or, if the person does not
13 have a usual place of business, to his or her last known address,
14 or, if the person is a corporation, only to a resident agent who is
15 designated to receive service of process or to an officer of the
16 corporation.

17 (4) ~~(3)~~—A prosecuting attorney or law enforcement officer
18 receiving notice of an alleged violation of this act, or of a
19 violation of an injunction, order, decree, or judgment issued in an
20 action brought ~~pursuant to~~ **UNDER** this section, or of an assurance
21 under this act, shall immediately forward written notice of the
22 violation together with any information he or she may have to the
23 office of the attorney general.

24 (5) ~~(4)~~—A person who knowingly violates the terms of an
25 injunction, order, decree, or judgment issued pursuant to this
26 section shall forfeit and pay to the state a civil fine of not more
27 than \$5,000.00 for each violation. For the purposes of this

1 section, the court issuing an injunction, order, decree, or
2 judgment shall retain jurisdiction, the cause shall be continued,
3 and the attorney general may petition for recovery of a civil fine
4 as provided by this section.