

Legislative Analysis



PROTECTIONS AGAINST DECEPTIVE TICKET SALES

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House Bill 4755 as introduced
Sponsor: Rep. Nancy Jenkins-Arno
Committee: Judiciary
Complete to 8-26-25

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4755 would amend the Michigan Consumer Protection Act (MCPA) to newly prohibit certain conduct by *persons* engaged in *trade or commerce* related to online ticket sales for *entertainment events*.

Person means an individual, corporation, limited liability company, trust, partnership, incorporated or unincorporated association, or other legal entity.

Trade or commerce means that term as defined in section 2(g) of the act.¹

Entertainment event would mean a performance, concert, exhibit, athletic game, or contest to which all of the following apply:

- The public is invited to observe.
- An entry fee is charged to attend.
- Tickets are sold.

Specifically, the bill would prohibit a person described above from doing any of the following:

- Without prior authorization, using (or causing to be used) an *internet domain name or subdomain name* in the person's *URL* that contains any of the following:
 - The name of the *place of entertainment*.
 - The name of the entertainment event, including the name of the individual or person scheduled to perform or appear at the event.
 - A name substantially similar to either of those described above.

Internet domain name or subdomain name would mean a globally unique, hierarchical reference to an internet host that is assigned through a centralized internet naming authority and composed of a series of character strings separated by periods with the rightmost string specifying the top of the hierarchy.

URL would mean a uniform resource locator for a website on the internet.

Place of entertainment would mean a public or private entertainment facility where an entertainment event is held.

- Without prior authorization, using (or causing to be used) a website that displays a text, image, website graphic, website design, or internet address that is substantially similar to an *operator's* website in a manner that could reasonably be expected to mislead a consumer as to the identity of the seller when buying a ticket.

¹ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-445-902>

Operator would mean a person that owns, operates, or controls a place of entertainment or that promotes or produced entertainment and that sells a ticket to an entertainment event as the first sale of a ticket.

- Selling a ticket without disclosing to the consumer the total price of the ticket, including any ancillary fees.
- Selling a ticket without clearly and conspicuously disclosing the portion of the total price of the ticket that represents a service charge or other fee or surcharge for the purchase of the ticket.
- Displaying any subtotal, fee, charge, or other component of the total price of a ticket more prominently or in a larger font size than the total price of the ticket.
- Making a false or misleading disclosure to a consumer of a subtotal, fee, charge, or other component of the total price of a ticket.
- Increasing the total price of a ticket after the initial display of the price of the ticket to the consumer, *except* if either of the following applies:
 - The consumer's transaction period has timed out and the consumer has not purchased a ticket.
 - The increase in price is due to either of the following:
 - Any applicable sales tax.
 - A fee for the delivery of nonelectronic tickets based on delivery to the consumer's address or the delivery method selected by the consumer, as long as the seller discloses the amount of each delivery fee.

The bill also would make various technical changes to section 3 of the act, notably updating references to include the proposed section described above.

MCL 445.903 (amended) and MCL 445.903j (proposed)

BACKGROUND:

The Michigan Consumer Protection Act was enacted to protect consumers from deceptive business practices such as price gouging or misrepresenting goods as new when they are used.² Section 3 of the act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and currently lists over 37 activities that constitute such a method, act, or practice. In addition, the act specifically prohibits certain actions (for which a civil fine may be imposed) and imposes additional requirements on certain transactions, such as vehicle rental transactions. However, as described below, the Michigan Supreme Court has ruled that the act does not apply to individuals or businesses that are regulated under state or federal law.

Remedies

A person who suffers a loss due to a violation of the Michigan Consumer Protection Act can sue to recover \$250 or actual damages, whichever is greater, along with reasonable attorney fees. Any person can sue for a declaratory judgment that an act or practice is unlawful under the act or for an injunction against someone engaging or about to engage in such conduct. In addition, the attorney general or a prosecuting attorney can bring an action to permanently

² For more information on the Michigan Consumer Protection Act, see: https://www.house.mi.gov/hfa/PDF/FiscalSnapshot/GG_AttyGen_Michigan_Consumer_Protection_Act_Jan2023.pdf.

enjoin a person from engaging in an unlawful act or practice, and a court may assess a fine of up to \$25,000 if the conduct is found to be unlawful. The act also allows for a class action to be brought under certain circumstances.

Applicability

Section 4(1)(a) of the Michigan Consumer Protection Act exempts a transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under state or federal law. The Michigan Supreme Court has held that this exemption applies when “the general transaction is specifically authorized by law, regardless of whether the specific misconduct alleged is prohibited.”³ That is, rather than a business practice being exempt from the act if it is specifically authorized by law, the court ruled that a practice whose legality under the act is in dispute is exempt from the act if the general activity being engaged in is authorized and regulated under law. For example, if a business is an industry regulated under a state or federal law and the transaction or conduct alleged to be deceptive is within the regulatory scheme of that industry, the exemption under section 4(1)(a) would likely apply and a person could not—under the Michigan Consumer Protection Act—sue for damages or petition to have the business stop engaging in the conduct alleged to be deceptive.

FISCAL IMPACT:

House Bill 4755 would have an indeterminate fiscal impact on the state and on local units of government. Under section 5 of the Michigan Consumer Protection Act, if the attorney general has probable cause to believe that a person has violated section 3 of the act, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice. The court may assess the defendant a civil fine of not more than \$25,000. Also, under section 5, a person who knowingly violates terms of an injunction, order, decree, or judgment issued for violations of section 3 is required to pay the state a civil fine of not more than \$5,000 for each violation. Any increase in civil fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues. The fiscal impact on local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of civil fine revenue collections or costs to local courts cannot be made. The attorney general would be able to support any additional legal action and enforcement activities related to the bill with ongoing staff and funding resources.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

³ *Smith v Globe Life Insurance Company*, 460 Mich 446 (1999). The court affirmed *Smith* in *Liss v Lewiston-Richards, Inc.*, 478 Mich 203 (2007).