



**House
Legislative
Analysis
Section**

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AG TO NOTIFY FRANCHISOR TO SEND NOTICE

House Bill 4888 as passed by the House
First Analysis (7-27-89)

Sponsor: Rep. James M. Middaugh
Committee: Corporations and Finance

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THE APPARENT PROBLEM:

The Franchise Investment Law requires a franchisor (a person who sells franchises) doing business in the state to annually notify the Department of Attorney General of its intent to transact business here. Prior to enactment of Public Act 1 of this year, franchisors were liable both for civil penalties (\$100 per day, up to \$10,000) as well as "recision" costs when they failed to file their annual notices. The act removed the recision penalty (which required a franchisor to, in some cases, buy back franchises while they were in violation of the filing requirement), but retained the civil penalties. According to some, the reason franchisors fail to file on time (or even at all) is because they forget about the filing requirement or don't know of its existence. For this reason, some have suggested amending the act to require the department to notify licensees 60 days before their annual notice is due, and of the fines they will be assessed if they fail to file, similar to the way drivers, for instance, are notified by the secretary of state of an impending license renewal date.

THE CONTENT OF THE BILL:

The Franchise Investment Law requires franchisors licensed within the state to file an annual notice of intent to do business with the Department of the Attorney General, along with the appropriate licensing fee. A franchisor who fails to file is liable for certain penalties based on the number of days after the due date the franchisor has not yet filed, up to \$10,000. The bill would amend the act to require the department, within 60 days of the date a franchisor is required to file his or her notice, to notify the franchisor in writing of the date the notice is due and the penalties for not filing. If the department, however, failed to notify a franchisor in this way, a franchisor would still have to comply with all of the provisions currently within the act.

MCL 445.1507a

FISCAL IMPLICATIONS:

According to the Department of Attorney General, the bill would increase duties and costs to the department, although these would be minimal. Costs would include additional paperwork that would have to be mailed to the approximately 800 licensees currently filing under the act (including postage). The department said additional duties to mail the notices could be handled by existing staff. (7-26-89)

ARGUMENTS:

For:

By requiring the Department of Attorney General to pre-notify franchisors of their filing deadlines, the bill would aid franchisors in meeting their deadlines and thus save them the cost of civil fines for failing to do so. A similar notification is done by the secretary of state for licensed drivers in the state. In addition, franchisors would still be accountable to the act's provisions even if the department failed to notify them as specified.

POSITIONS:

Mich. State Law Library
The Department of Attorney General has no position on the bill. (7-26-89)

H.B. 4888 (7-27-89)