

A SUMMARY OF HOUSE BILL 4250 AS INTRODUCED 2-13-01

The bill would add a new section to the home solicitation sales act (Public Act 227 of 1971) to make it an unfair or deceptive act or practice, and a violation of the act, for a telephone solicitor to do certain things, including making certain kinds of misrepresentations, false or misleading statements, credit card charges, and offers of certain “prizes.”

More specifically, the bill would prohibit a telephone solicitor from misrepresenting or failing to disclose (“in a clear, conspicuous, and intelligible manner”) the following information before payment were received from the consumer:

- the total purchase price to the consumer of the goods or services to be received;
- any restrictions, limitations, or conditions to purchase or to use the goods or services that were the subject of an offer to sell goods or services;
- any material term or condition of the seller’s refund, cancellation, or exchange policy (including, if applicable, that the seller did not have such a policy);
- all material costs of conditions related to receiving a prize, including the odds of winning the prize (and, if the odds were not calculable in advance, the factors used in calculating the odds), the nature and value of a prize, that no purchase were necessary to win the prize, and the “no purchase required” method of entering the contest;
- any material aspect of an investment opportunity the seller were offering (including, but not limited to, risk, liquidity, earnings potential, market value, and profitability);
- the quantity and any material aspect of the quality or basic characteristics of any goods or services offered; and
- the right to cancel a sale under the act, if any.

The bill also would prohibit a telephone solicitor from doing any of the following:

- misrepresenting any material aspect of the *quality* or basic characteristics of any goods or services offered,
- making a false or misleading statement with the purpose of inducing a consumer to pay for goods or services;

- requesting or accepting payment from a consumer, or making or submitting any charge to the consumer's credit or bank account, before the telephone solicitor or seller received the consumer's express verifiable authorization as required by the act;

- offering to a consumer in Michigan a prize promotion in which a purchase or payment were necessary to obtain the prize; and

- failing to comply with the act's record-keeping requirements.

The bill is tie-barred to House Bill 4153, which is part of a package of bills that would regulate residential telephone solicitation in Michigan. (See the House Legislative Analysis Section's summary of House Bill 4042 dated 2-12-01 for more detailed information on House Bills 4042, 4153, and 4154.)

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