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House Bill 4250 (Substitute S-2 as reported by the Committee of the Whole)

Sponsor: Representative Mike Kowall

House Committee: Energy and Technology

Senate Committee: Technology and Energy

## **CONTENT**

The bill would amend Public Act 227 of 1971, which prescribes the rights and duties of parties to home solicitation sales, to provide that it would be an unfair or deceptive act or practice, and a violation of the Act, for a telephone solicitor to misrepresent or fail to disclose, in a clear, conspicuous, and intelligible manner, and before payment was received from the consumer, all of the following:

- The total purchase price to the consumer of the goods or services to be received and the right to cancel a sale.
- Any restrictions, limitations, or conditions to purchase or to use the goods or services.
- Any material term or condition of the seller's refund, cancellation, or exchange policy, or that the seller did not have a refund, cancellation, or exchange policy.
- All material costs or conditions related to receiving a prize.
- Any material aspect of an investment opportunity the seller was offering.
- The quantity and any material aspect of the quality or basic characteristics of any goods or services offered.

Further, it would be an unfair or deceptive act or practice, and a violation of the Act, for a telephone solicitor to make a telephone solicitation to a consumer in Michigan who had requested that he or she not receive calls from the organization or other person on whose behalf the telephone solicitation was made; or fail to comply with the requirements of House Bills 4042 and 4154.

A person who suffered a loss due to a violation of the bill could bring an action to recover the greater of actual damages or \$250, plus reasonable attorney fees. Beginning 90 days after the bill's effective date, a person who knowingly or intentionally violated the bill would be guilty of a misdemeanor punishable by a fine of up to \$500.

The bill would not apply to a person subject to the Charitable Organizations and Solicitations Act or the Public Safety Solicitation Act.

The bill is tie-barred to House Bill 4042, which would require the Public Service Commission to establish or designate a do-not-call list.

Proposed MCL 445.111c

Legislative Analyst: G. Towne

## **FISCAL IMPACT**

Enforcement costs and fine revenue would depend on the number of violations under the bill. The Department of Attorney General reports that from December 1, 2000, through September 30, 2001, it received 702 consumer protection complaints involving telephone solicitation. The Department estimates that the bill would increase its workload by the equivalent of 0.5 FTE positions. Any additional staff would depend on the appropriations process.

Date Completed: 12-11-01

Fiscal Analyst: B. Bowerman

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Analysis available @ <http://www.michiganlegislature.org>

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