

Legislative Analysis



FEDERAL RESTRAINT OF TRADE VIOLATIONS

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House Bill 6249

Sponsor: Rep. Mary Valentine

Committee: Judiciary

Complete to 9-16-08

A SUMMARY OF HOUSE BILL 6249 AS INTRODUCED 6-18-08

The bill would allow the attorney general or a prosecuting attorney to investigate cases involving federal statutes that apply to restraints of trade if the federal statute authorizes or permits action by a state.

The Michigan Antitrust Reform Act, among other things, prohibits contracts and conspiracies in restraint of trade or commerce; prohibits monopolies; prescribes powers and duties of certain state officers and agencies; and provides remedies, fines, and penalties for violations of the act.

Currently, the act authorizes the attorney general or a prosecuting attorney to serve on a person—before bringing an action in circuit court—a written demand to appear and be examined under oath, and also to produce the document or object for inspection and copying, in cases where the attorney general or prosecuting attorney had reasonable cause to believe that a person had information or was in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of the act. The demand must meet criteria listed in the act .

House Bill 6249 would amend this provision of the Michigan Antitrust Reform Act to also apply to a federal statute applicable to restraints of trade that authorized or permitted state action. Several other revisions would be made for consistency; for example, specifying that court actions would be brought in a state or federal court in place of referring to a circuit court.

In addition, the bill would allow the attorney general, or a prosecuting attorney acting with the AG's permission or at the AG's request, to bring an action in the name of the state for appropriate injunctive or other equitable relief, civil remedies, or criminal penalties for a violation of any federal statute applicable to restraints of trade that authorized or permitted state action.

MCL 445.776 and 445.777

FISCAL IMPACT:

House Bill 6249 gives the attorney general the authority to investigate certain federal restraint of trade violations. The attorney general may experience increased

administrative costs associated with conducting a greater number of investigations that might arise from the bill's provisions, but these costs cannot be determined since it is unknown how many additional investigations will be conducted.

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