



**Senate Fiscal Agency**  
P. O. Box 30036  
Lansing, Michigan 48909-7536

BILL



ANALYSIS

**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 490 (Substitute S-1 as reported)  
Sponsor: Senator Tonya Schuitmaker  
Committee: Commerce

### **CONTENT**

The bill would amend the video rental privacy law to do the following:

- Prohibit a person subject to the law from knowingly disclosing information that personally identified the customer as having purchased, leased, rented, or borrowed certain materials.
- Specify that the prohibition against disclosure would not apply to disclosure of information aggregated in a manner designed to prevent its association with an identifiable person.
- Allow disclosure of certain customer information under a warrant; to any person if the disclosure were incident to the ordinary course of business of the person that was disclosing the information; or if disclosure were for the purpose of marketing goods and services to customers or potential customers.
- Specify that no liability could result from the lawful disclosure of information.
- Require a person disclosing information for marketing purposes to inform the customer by written notice that the customer could remove his or her name at any time in the manner described by the bill.
- Allow a customer to provide notice that he or she did not want his or her name disclosed for marketing purposes, and prohibit a person from knowingly disclosing the name for marketing purposes beginning 30 days after the person received the notice.
- Specify that if a person provided a prominently disclosed mechanism to submit such a request, the customer would have to submit notice in that manner for it to be valid.
- Provide that a customer who suffered actual injury as a result of a violation of the law could bring a civil action, and could recover actual damages, including damages for emotional distress, and reasonable costs and attorney fees.

The bill states, "This amendatory act is curative and intended to clarify that the prohibitions on disclosing information contained in 1988 PA 378... [the video rental privacy law] do not prohibit disclosing information if it is incident to the ordinary course of business of the person disclosing the information, including marketing goods and services to customers or potential customers when written notice is provided, and that a civil action for a violation of those prohibitions could only be brought by a customer who has suffered actual damages as a result of the violation."

The bill would take effect 90 days after its enactment.

MCL 445.1711 et al.

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 12-10-15

Fiscal Analyst: Ryan Bergan

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Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

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