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House Bill 4015 (Substitute H-3 as passed by the House)
Sponsor: Representative Sarah Lightner
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 5-25-21

CONTENT

The bill would amend the Michigan Consumer Protection Act to do the following:

- **Require an unaffiliated third party that offered online services that were provided by a State agency, department, or division to provide, among other things, a conspicuous notification of its lack of affiliation with the State and an option to redirect to the applicable State website.**
- **Specify that a violation of the bill would constitute an unfair, unconscionable method, act, or practice in the conduct of trade or commerce.**

The bill would take effect 90 days after its enactment.

Third-Party Online Services

The bill create Section 3m of the Act to require a third party that offered online services that were performed by a State agency, department, or division, and was not affiliated or under contract to do so for that agency, department, or division would have to do all of the following:

- Have a conspicuous notification on its website stating that it was not a State agency, department, or division.
- Have a conspicuous notification on its website stating that its services were not endorsed or approved by a State agency, department, or division.
- Have a conspicuous notification on its website stating that it was not affiliated or under contract to perform online services for a State agency, department, or division.
- Provide a link on its website to the website of the State agency, department, or division on which a person could use the online service.
- Ensure that a conspicuous notification occurred for any fee it would charge for the online service before a transaction for the service was completed.

"Third party" would mean a person that is not an agency, department, or division of the State. "Online services" would not include the sharing of public information that is otherwise accessible and does not require consumers to provide payment or personal information to access it. "Conspicuous notification" would mean, at a minimum, for a notification that is on a website, a notification that is on the opening page of that website, is in a type size that is the same or larger than the largest type size on that website, and is in boldface, capital letters.

Failure to comply with the above requirements would be considered a violation of Section 3m.

Violation as Unfair Trade Practice

The Act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as specified in the Act. The bill specifies that a violation of Section 3m would constitute an unfair, unconscionable, or deceptive method, act, or practice in the conduct of trade or commerce. (Generally, the Attorney General may bring an action to enjoin, temporarily or permanently, a person engaging or about to engage in prohibited conduct, as well as a class action for individuals harmed by a violation. For persistent and knowing violations, a court may assess a civil fine of up to \$25,000 and costs for the prevailing party. In addition, a person also may bring an action to obtain a declaratory judgment that a method, act, or practice is unlawful and/or to enjoin the unlawful conduct, and also may bring an action to recover actual damages or \$250, whichever is greater, and attorney fees.)

MCL 445.903 et al.

Legislative Analyst: Christian Schmidt

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.