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House Bill 5294 (as passed by the House)  
Sponsor: Representative Sarah L. Lightner  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 1-25-22

### **CONTENT**

**The bill would amend the Michigan Consumer Protection Act to modify provisions requiring third-party entities to include certain notifications to consumers if they offer online services that are provided by State agencies or departments.**

Section 3m of the Act requires a third party that offers online services that are performed by a State agency, department, or division, and is not affiliated or under contract to do so for that agency, department, or division to do all of the following:

- Have a conspicuous notification on its website stating that it is not a State agency, department, or division.
- Have a conspicuous notification on its website stating that its services are not endorsed or approved by a State agency, department, or division.
- Have a conspicuous notification on its website stating that it is 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 may use the online service.
- Ensure that a conspicuous notification occurred for any fee it may charge for the online service before a transaction for the service is completed.

(Section 3m takes effect on March 30, 2022.)

Instead, under the bill, if a third party charged customers a fee or required customers to disclose personal information for online services similar to those performed by a governmental agency in the State and the third party was not affiliated with that governmental agency or under contract with it to perform those online services, the third party would have to do all of the following:

- Have a conspicuous notification on its website offering those online services stating that the third party was not a governmental agency of the State.
- Have a conspicuous notification on its website offering those online services stating that the third party's services were not endorsed or approved by a governmental agency of the State.
- Have a conspicuous notification its website offering those online services stating that the third party was not affiliated with a governmental entity of the State or under contract with a governmental agency of the State to perform those online services.

- Provide a link on its website offering those online services to the website of the governmental agency of the State on which a person could utilize the governmental agency's online service.
- Ensure that a conspicuous notification occurred for any fee it could charge for the online service before a transaction for the service was completed.

"Governmental agency" would mean the State or a political subdivision of the State.

Under the Act, "online services" does 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. The bill would delete this definition. Instead, "online services performed by a governmental agency in this State" would mean any service that a governmental agency in the State offers to members of the public on a website, including processes for booking appointments, completing or filing forms, downloading documents, and making payments.

Under the Act, failure to comply with the requirements described above is a violation of Section 3m. The bill would delete this provision.

The bill would prohibit a person that was not part of or associated with a governmental entity from doing any of the following:

- Simulate a summons, complaint, jury notice, or other court, judicial, or administrative process of any kind.
- Represent, imply, or otherwise engage in an action that reasonably could cause confusion that the person using or employing the action was a part of or associated with a governmental entity.
- Represent, imply, or otherwise reasonably cause confusion that goods, services, an advertisement, or an offer was disseminated by or had been approved, authorized, or endorsed, in whole or in part, by a governmental entity, when such was not true.
- Use or employ language, symbols, logos, representations, statements, titles, names, seals, emblems, insignia, trade or brand names, business or control tracking numbers, website or email addresses, or any other term, symbol, or other content that represented or implied or otherwise reasonably caused confusion that goods, services, an advertisement, or an offer was from a governmental entity, when such was not true.

The bill would take effect 91 days after the Legislature adjourns its 2021 regular session sine die.

MCL 445.903m

Legislative Analyst: Stephen Jackson

### **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.