

HOUSE BILL NO. 5294

September 14, 2021, Introduced by Rep. Lightner and referred to the Committee on Regulatory Reform.

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
by amending section 3m (MCL 445.903m), as added by 2021 PA 46.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3m. (1) If a third party ~~offers~~**charges customers a fee**
2 **or requires customers to disclose personal information for** online
3 services that are ~~performed by an agency, department, or division~~
4 ~~of this state~~**similar to online services performed by a**
5 **governmental agency in this state** and the third party is not

1 affiliated **with that governmental agency** or under contract **with**
 2 **that governmental agency** to ~~perform the~~ **provide those** online
 3 services, ~~for an agency, department, or division of this state, the~~
 4 third party ~~must~~ **shall** do all of the following:

5 (a) Have a conspicuous notification on ~~its~~ **the** website
 6 **offering those online services** stating that ~~it~~ **the third party** is
 7 not ~~an agency, department, or division~~ **a governmental agency** of
 8 this state.

9 (b) Have a conspicuous notification on ~~its~~ **the** website
 10 **offering those online services** stating that ~~its~~ **the third party's**
 11 services are not endorsed or approved by ~~an agency, department, or~~
 12 ~~division~~ **a governmental agency** of this state.

13 (c) Have a conspicuous notification on ~~its~~ **the** website
 14 **offering those online services** stating that ~~it~~ **the third party** is
 15 not affiliated **with a governmental agency of this state** or under
 16 contract **with a governmental agency of this state** to ~~perform~~
 17 **provide those** online services. ~~for an agency, department, or~~
 18 ~~division of this state.~~

19 (d) Provide a link on ~~its~~ **the** website **offering those online**
 20 **services** to the website of the ~~agency, department, or division~~
 21 **governmental agency** of this state on which a person may utilize the
 22 **governmental agency's** online service.

23 (e) Before a transaction for an online service is completed,
 24 ensure that a conspicuous notification of any fee it will charge
 25 for the online service occurs.

26 (2) ~~Failure to comply with the requirements in subsection (1)~~
 27 ~~is a violation of this section.~~ **A person that is not part of or**
 28 **associated with a governmental entity shall not do any of the**
 29 **following:**

1 (a) Simulate a summons, complaint, jury notice, or other
2 court, judicial, or administrative process of any kind.

3 (b) Represent, imply, or otherwise engage in an action that
4 may reasonably cause confusion that the person using or employing
5 the action is a part of or associated with a governmental entity.

6 (c) Represent, imply, or otherwise reasonably cause confusion
7 that goods, services, an advertisement, or an offer was
8 disseminated by or has been approved, authorized, or endorsed, in
9 whole or in part, by a governmental entity, when such is not true.

10 (d) Use or employ language, symbols, logos, representations,
11 statements, titles, names, seals, emblems, insignia, trade or brand
12 names, business or control tracking numbers, website or email
13 addresses, or any other term, symbol, or other content that
14 represents or implies or otherwise reasonably causes confusion that
15 goods, services, an advertisement, or an offer is from a
16 governmental entity, when such is not true.

17 (3) As used in this section:

18 (a) "Conspicuous notification" means, at a minimum, for a
19 notification that is on a website, a notification that is on the
20 opening page of that website, is in a type size that is the same or
21 larger than the largest type size on that website, and is in
22 boldface, capital letters.

23 ~~(b) "Online services" does not include the sharing of public~~
24 ~~information that is otherwise accessible and does not require~~
25 ~~consumers to provide payment or personal information to access it.~~

26 (b) "Governmental agency" means this state or a political
27 subdivision of this state.

28 (c) "Online services performed by a governmental agency in
29 this state" means any service that a governmental agency in this

1 state offers to members of the public on a website, including
2 processes for booking appointments, completing or filing forms,
3 downloading documents, and making payments.

4 (d) ~~(e)~~—"Third party" means a person that is not an agency,
5 department, or division of this state.

6 Enacting section 1. This amendatory act takes effect 91 days
7 after adjournment of the legislature's 2021 regular session sine
8 die.