

SFA

BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4275 (Substitute S-2 as reported)
Sponsor: Representative John M. Maynard
House Committee: Military and Veterans' Affairs
Senate Committee: Local Government and Veterans

Date Completed: 4-24-89

RATIONALE

There have been reports of incidents in which peddlers, in order to sell their goods, have implied an affiliation with veterans' organizations when, in fact, no such affiliation existed. A person selling items door-to-door, for example, may identify himself or herself as a veteran and may imply, if not outright claim, that the sales are to benefit a veterans' organization. Problems have arisen when the person claims to be a veteran, but is not, or even when the person is a veteran, but the sale of the goods results in a financial gain solely for that person and not for the benefit of a veterans' organization. Some people believe that regulations are needed to minimize such misrepresentations.

CONTENT

The bill would amend Public Act 359 of 1921, which provides for the issuance of free licenses to veterans of the United States' armed forces to sell merchandise in the State, to:

- Prohibit a person from knowingly making a false representation that the proceeds from the goods sold would benefit a "veterans' organization".
- Require a sign or statement, which noted that sale of the product would benefit the seller, to be displayed conspicuously at the place of sale or to be attached to the goods.
- Provide penalties for violation of the bill.
- Define "veterans' organization" and revise provisions concerning persons who qualify as veterans under Public Act 359.

The bill would require that a licensee, while engaged in selling goods under Public Act 359, conspicuously display at the place of sale a sign that contained the following information in at least 18-point boldfaced type: the name of the licensee, the license number, and a statement in substantially the following form: "The profit from the sale of this product is for my personal benefit".

At the time of sale of the goods, a written statement of at least 12-point boldfaced type would have to be printed on or attached to the goods, in substantially the following form: "The profit from the sale is for my personal benefit".

A person who violated the bill would be responsible for a civil infraction and could be liable for a civil fine of not more than \$1,000. The bill specifies that a prosecutor for the county in which a person violated these provisions would be required to bring a civil action in any court of competent jurisdiction to enforce the Act. In addition, the bill specifies that nothing in Public Act 359 could be construed as contrary to the provisions of Public Act 51 of 1925, which provides for licensing transient merchants.

The bill also would revise provisions concerning persons who qualify for a license under Public Act 359 to specify that the Act would include a person who served at least 180 days of active duty service in the armed forces or who had a service connected disability as a result of that service. The bill would delete current provisions that specify qualifications as to the branch of the armed services and the war in which the person served.

"Veterans' organization" would mean a veterans' organization chartered under Federal law, or an organization composed of veterans as defined in Public Act 190 of 1965, which provides for a system of uniformity of service for veterans that was organized for a bona fide fraternal, benevolent, educational, philanthropic, humane, patriotic, or eleemosynary (charitable) purpose.

MCL 35.441-35.443

SENATE COMMITTEE ACTION

The Committee on Local Government and Veterans adopted a substitute bill that would: add the requirement that a sign, as specified in the bill, be displayed at the point of sale; revise the penalties included in the House-passed bill; require a county prosecutor to bring a civil action against a violator; and revise provisions concerning persons who qualify as a veteran under Public Act 359.

FISCAL IMPACT

Since a violation of the bill would be a civil infraction with a maximum fine of \$1,000, there could be additional revenue realized by local governments depending on the number of violations and the number of fines issued. There could also be additional court costs realized by local units for prosecuting violators.

ARGUMENTS

Supporting Argument

The bill would minimize the potential for misrepresentation and misunderstanding when a person purchased goods in the belief that proceeds from the sale would benefit a veterans' organization. Presumably, veterans' groups also would benefit since such misrepresentations tend to siphon off contributions that otherwise would be made to legitimate veterans' organizations.

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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.