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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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House Bill 4888 (as reported without amendment)

Sponsor: Representative James M. Middaugh

House Committee: Corporations and Finance

Senate Committee: Commerce and Technology

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Date Completed: 10-27-89

RATIONALE

The Franchise Investment Law requires a franchisor doing business in Michigan annually to notify the Department of the Attorney General of its intent to transact business in the State. Prior to the enactment of Public Act 1 of 1989, franchisors were liable for civil penalties as well as "recision" costs when they failed to file their annual notices. Public Act 1 removed the recision penalty, which required a franchisor in some cases to buy back franchises sold while the franchisor was in violation of the filing requirement, but retained the civil penalties. The reason some franchisors fail to file on time or even at all, it is claimed, is that they forget about the filing requirement or don't know of its existence. Thus, some people have suggested that the Department should be required to notify licensees that their annual notice is due and of the fines that will be assessed if they fail to file, similar to the way drivers are notified by the Secretary of State, for example, of an impending license renewal date.

CONTENT

The bill would amend the Franchise Investment Law to require the Department of Attorney General to notify franchisors when it is time for them to file their annual notices of intent to do business.

The Franchise Investment Law currently requires franchisors licensed within the State to file with the Department of Attorney General an annual notice of intent to do business, accompanied by a \$250 annual fee. A franchisor who fails to meet the filing deadline is liable for civil penalties of \$100 per day for each day past the deadline, up to a maximum

of \$10,000. The bill would require the Department, within 60 days of the date a franchisor is required to file his or her notice, to notify the franchisor in writing of the date the notice is due and the penalties for not filing. Failure of the Department, however, to notify the franchisor as required would not relieve the franchisor of his or her obligation to comply with the requirements of the Act.

MCL 445.1507a

FISCAL IMPACT

The bill would increase administrative costs to the Department of Attorney General. Mailing costs would be approximately \$135 annually. Administrative costs to the Department would be minimal.

ARGUMENTS**Supporting Argument**

By requiring the Department of Attorney General to pre-notify franchisors of their filing deadlines, the bill would aid franchisors in meeting their deadlines and, thus, save them the cost of civil fines for failing to do so. A similar notification is given by the Secretary of State to licensed drivers in Michigan. It should be noted that even if the Department failed to notify the franchisors, they still would be obligated to comply with the Act's provisions.

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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.

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