

HOUSE BILL No. 5353

December 12, 1989, Introduced by Rep. Law and referred to the Committee on State Affairs.

A bill to prohibit state agencies from engaging in certain commercial activities; to provide exceptions; and to create a cause of action.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "private enterprise act".

3 Sec. 2. As used in this act:

4 (a) "Commercial activities" means the offering for sale,
5 rental, or lease goods or services by a state agency to the
6 public that duplicates the activities of a private enterprise.

7 (b) "Private enterprise" means an individual, partnership,
8 association, corporation, or other legal entity that engages in
9 activities for profit and that is not a state agency.

10 (c) "State agency" means a department, office, commission,
11 board, or other entity of state government, but does not include

1 a local unit of government, institution of higher education, or
2 community college.

3 Sec. 3. After the effective date of this act, a state
4 agency shall not engage in commercial activity unless the commer-
5 cial activity is specifically authorized by law, or unless the
6 legislature fails to prohibit an existing commercial activity
7 pursuant to section 4.

8 Sec. 4. (1) During the first 180-day period after the
9 effective date of this act, each state agency shall submit to the
10 legislature a list of its commercial activities. The list may
11 include applicable information compiled for the department of
12 management and budget pursuant to the inventory requirement of
13 the management and budget act, Act No. 431 of the Public Acts of
14 1984, being sections 18.1101 to 18.1594 of the Michigan Compiled
15 Laws.

16 (2) During the 360-day period before section 3 takes effect,
17 the legislature shall evaluate each list of commercial activities
18 provided by the state agencies, and shall determine which commer-
19 cial activities unfairly and unnecessarily compete with private
20 enterprise. The legislature may solicit and receive additional
21 information from the public as part of the evaluation process.

22 (3) The legislature may prohibit by law a state agency from
23 engaging in commercial activities that the legislature finds
24 unfairly and unnecessarily compete with private enterprise.

25 (4) A state agency may continue to engage in a commercial
26 activity listed pursuant to subsection (1) if the legislature
27 fails to prohibit the activity as provided in this section.

1 Sec. 5. A private enterprise that suffers economic loss as
2 a result of a state agency violating this act may bring a civil
3 action in the court of claims for damages.

4 Sec. 6. Section 3 shall take effect upon the expiration of
5 540 days after the effective date of this act.