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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

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House Bill 5193 (Substitute H-1)
Sponsor: Representative Lynn Banks
House Committee: Consumers
Senate Committee: Commerce and Technology

Date Completed: 3-8-88

SUMMARY OF HOUSE BILL 5193 (Substitute H-1) as passed by the House:

The bill would create a new public act regulating the advertisement of consumer goods and services, specifying the conditions for seeking an injunction for violation of the bill, and providing for penalties for violations.

Specifically, the bill would prohibit a person from publishing or placing before the public an advertisement for consumer goods or services that stated a street address unless the advertisement also included a street address where business was actually conducted and, if applicable, where parts could be purchased. Publishers, newspapers, printers, outdoor advertising firms, and radio and television stations would not be liable under the bill for unwittingly participating in the publication of an advertisement in violation of the bill. The bill would not apply to a mail order business.

The Attorney General could seek an injunction against a continuing violation of the bill after giving a defendant 48 hours' notice to stop violating the bill. The court could not issue an injunction if the defendant had stopped violating or had taken positive action to stop violating the bill. The Attorney General could accept from the potential defendant an assurance of discontinuance, which the person would have to file with the court. Upon being informed of an alleged violation of the bill, a prosecutor or law enforcement officer would immediately have to notify the Attorney General. A prosecutor could conduct an investigation and take action under the bill in the same manner as the Attorney General.

A person who knowingly violated the bill or an injunction or order issued under it would have to pay to the State a civil penalty of no more than \$200 for the first violation and of no more than \$1,000 for a second or subsequent violation.

If the Attorney General or the prosecutor failed to initiate action within 60 days after receiving notice of an alleged violation of the bill, a person could bring action to obtain a declaratory judgment that a practice violated the bill, and/or to obtain an injunction against a person who was violating or about to violate the bill. Someone who suffered a loss due to

a violation of the bill could bring an individual or class action to recover actual damages or \$50, whichever was greater, for each day of violation, plus reasonable attorney fees of up to \$300 for an individual suit.

The bill would take effect June 1, 1988.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have an indeterminate impact on State and local government. The number of violations and resulting enforcement costs cannot be estimated.

Fiscal Analyst: B. Bowerman

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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.