

TELEPHONE ADVERTISING

House Bill 4694 as enrolled Public Act 234 of 1998 Second Analysis (7-2-98)

Sponsor: Rep. Eileen DeHart
House Committee: Consumer Protection
Senate Committee: Financial Services

THE APPARENT PROBLEM:

Many people feel that the use of telephone lines to deliver recorded commercial messages is an unwarranted inconvenience and an unwarranted violation of the recipient's privacy. Current law prohibits the use of a recorded telephone advertising to contact an individual at home unless the individual has knowingly and voluntarily either requested or consented to the call, or given his or her phone number to the caller. Unfortunately, a persistent problem occurs when the recipient of a recorded commercial telephone message attempts to end the recorded transmission by hanging up the phone; often the recipient is unable to immediately break contact with the recorded message. Some recordings can continue to run, tying up the recipient's phone line and causing them to possibly miss calls, or making it difficult or impossible to make an outgoing call until the message ends or contact is broken. It has been suggested that since the entity making the call is capable of assuring that the recorded message ends when the receiving party breaks the connection, the entity seeking to deliver the message should be required to do so.

THE CONTENT OF THE BILL:

House Bill 4694 would amend Public Act 47 of 1980 (MCL 484.125) to place additional restrictions on the delivery of recorded commercial advertisements via the telephone lines. Current law prohibits the delivery of recorded commercial advertisements only to residential phone service subscribers. The bill would include business and toll-free telephone service subscribers as well.

In addition, the bill would require a recorded commercial advertisement delivered via the telephone line to end or otherwise free up the phone line immediately if the person receiving the advertisement interrupted it by hanging up the phone. The bill would

also increase the amount that could be recovered by a party who received a recorded commercial message for a violation of the act's provisions from "not more than \$250" to "\$1,000".

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill is not expected to have any fiscal impact on the state or on local units of government. (8-5-98)

ARGUMENTS:

For:

It is annoying and inconvenient enough for people to have to answer a recorded commercial telephone message without having to worry whether the recording is continuing to run after they hang up, blocking incoming calls and preventing them from making outgoing calls. Furthermore, when a recording continues to run after the person receiving the call hangs up and blocks the phone line, it can have potentially serious consequences -- for example, a person who needed to make an emergency call would be unable to make the call until the connection is broken. The bill would require that companies that use this form of advertising make certain that the receiving end has control of when the commercial ends. In addition, by including businesses and toll-free subscribers, the bill will afford these telephone customers the same protections as are given to residential customers, and by increasing the amount of damages the bill will provide advertisers with good reason to comply.

Against:

The bill doesn't go far enough. Rather than restricting only recorded advertising messages, it should protect consumers from all unsolicited and unauthorized commercial calls.

Against:

The bill is both unnecessary and unfair. It unfairly singles out and restricts a legitimate and successful form of advertising without considering the potential cost of implementing the bill's provisions to those businesses that use this form of advertising, simply because the form of advertising is unpopular. If this means of advertising were as unpalatable to consumers as is claimed, then it would be so unsuccessful that no reasonable business would choose to use it. Whether or not people claim to find them annoying, the use of recorded commercial telephone messages has proven highly successful and will no doubt continue.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.