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SFA

BILL ANALYSIS

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House Bill 4694 (Substitute H-1 as passed by the House)
Sponsor: Representative Eileen DeHart
House Committee: Consumer Protection
Senate Committee: Financial Services

Date Completed: 3-18-98

CONTENT

The bill would amend Public Act 206 of 1913, which regulates the telephone business, to place additional restrictions on the delivery of recorded commercial advertisements via telephone lines.

The Act prohibits a caller from using a telephone line to contact a "subscriber" at the subscriber's residence in order to deliver a recorded message for the purpose of delivering commercial advertising to the subscriber, unless the subscriber knowingly and voluntarily either requested, consented, permitted, or authorized the contact or provided his or her telephone number to the caller. "Subscriber" means an individual who subscribes to residential telephone service from a telephone company regulated by the State, and all others with the same legal residence as the subscriber.

Under the bill, the definition of "subscriber" would be revised to include business and toll-free, as well as residential, telephone service. Also, the prohibition would apply to calls to a subscriber at the subscriber's residence, business, or toll-free telephone number. In addition, the bill would prohibit calls to a subscriber in order to do either of the following:

- Deliver a recorded commercial advertisement, unless the advertisement ended or otherwise freed the subscriber's telephone line for incoming or outgoing calls immediately upon the subscriber's termination of the contact.
- Deliver or attempt to deliver commercial advertising by means that prevented caller identification technology from disclosing the caller's identity before the subscriber answered the call, unless the subscriber knowingly and voluntarily either requested, consented, permitted, or authorized the contact or provided his or her telephone number to the caller.

A violation of the Act's telephone advertising prohibition is a misdemeanor, punishable by a maximum fine of \$1,000, up to 10 days' imprisonment, or both. In addition, a subscriber contacted by a caller in violation of the prohibition may bring an action to recover damages of not more than \$250, together with reasonable attorneys' fees. The bill provides that a subscriber could recover damages of \$1,000 plus reasonable attorneys' fees.

MCL 484.125

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would not result in additional costs to the Public Service Commission.

Enforcement costs and fine revenue generated from expansion of the prohibition would depend on the number of violations, which is not determinable.

Fiscal Analyst: M. Tyszkiewicz
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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.