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BILL ANALYSIS



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House Bill 4918 (Substitute S-2)
Sponsor: Representative Sue Allor
House Committee: Financial Services
Senate Committee: Veterans, Military Affairs and Homeland Security

Date Completed: 5-17-18

CONTENT

The bill would amend the Michigan Consumer Protection Act to do the following:

- **Prohibit a person who was engaged in trade or commerce from providing or offering to provide a veterans' benefit service to a veteran or his or her family member unless the person was employed by a government agency authorized to provide the benefit, was an accredited individual under Federal law, or was an employee of a recognized veterans' services organization.**
- **Prohibit a person who was engaged in trade or commerce from receiving compensation for providing or offering to provide a veterans' benefit service unless the person was permitted to receive compensation under Federal law, and disclosed certain information to the veteran or his or her family member.**
- **Prohibit a person who was engaged in trade or commerce from engaging in other conduct with respect to providing a veterans' benefit service, such as receiving compensation for referring a veteran or his or her family member to an individual accredited by the United States Department of Veterans Affairs (VA).**
- **Prohibit a person engaged in trade or commerce from advertising or promoting an event or other public gathering regarding veterans' pension or medical benefits that did not include a disclosure that the event was not sponsored by the VA or another congressionally recognized veteran's organization.**
- **Specify that the disclosure would not apply if the VA or another congressionally recognized veteran's organization granted permission to the advertiser for the use of its name to promote the event, or if the event were part of a continuing legal education course.**

"Veterans' benefit service" would mean either of the following:

- The preparation, presentation, or prosecution of a claim affecting an individual who has filed or has expressed an intention to file an application for veteran, dependent, or survivor pension or medical benefits under laws administered by the VA or the Department of Military and Veterans Affairs pertaining to veterans, dependents and survivors.
- Advice or representation concerning the preparation, presentation, or prosecution of a claim for benefits described above.

The bill would not apply to officers, employees, or volunteers of the State, of any county, city, or other political subdivision of the State, or of a Federal agency, who were acting in their official capacity.

The bill would take effect 90 days after its enactment.

Unfair or Deceptive Practices; Veterans' Benefit Services

The Act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful, and lists activities that constitute these methods, acts, or practices. The bill would include violations of the proposed prohibitions.

The bill would prohibit a person who was engaged in trade or commerce from providing, or offering to provide, a veterans' benefit service to a veteran or a veteran's family member unless the person was any of the following:

- Employed by a governmental agency that was authorized to provide the service.
- An accredited individual under Federal laws and regulations applicable to the administration of veterans' benefits.
- An employee or authorized representative of a recognized veterans' benefit services organization.

("Recognized veterans' services organization" would mean a veterans' services organization that is recognized under the Federal laws and regulations applicable to the administration of veterans' benefits.)

The bill also would prohibit a person who was engaged in trade or commerce from receiving compensation for providing or offering to provide a veterans' benefit service to a veteran or his or her family member unless 1) the individual was permitted to receive compensation for providing or offering to provide that service to the veteran or family member under Federal law and regulations applicable to the administration of veterans' benefits, and 2) before providing or offering to provide that service, the individual disclosed all of the following to the veteran or family member:

- That the individual was not affiliated with a government agency or recognized veterans' services organization.
- If applicable, that the veterans' benefit service was available free of charge from a government agency or recognized veterans' services organization.
- That the veteran could qualify for benefits other than or in addition to those the veteran or family member could obtain if the person were engaged to provide the service.
- That receiving a certain level of veterans' benefits would not be guaranteed if the person were engaged to provide the service.

("Compensation" would mean money, property, or anything else of value, including exclusive arrangements or agreements for the provision of services or the purchase of products.)

In addition, the bill would prohibit a person from engaging in any of the following acts or practices:

- Using financial or other personal information gathered for insurance or other purposes in providing or offering to provide a veterans' benefit service, unless the other requirements of the bill were met.
- Receiving compensation for referring a veteran or a veteran's family member to an individual who was accredited by the VA.
- Representing, either directly or by implication, orally or in writing, that receiving a certain level of veterans' benefits would be guaranteed.

Disclosure

Under the bill, a person engaged in trade or commerce could not advertise or promote an event, presentation, seminar, workshop, or other public gathering regarding veterans' pension or medical benefits or entitlements that did not include the following disclosure:

This event is not sponsored by, or affiliated with, the United States Department of Veterans Affairs, the Michigan Department of Military and Veterans Affairs, the Michigan Veterans Affairs Agency, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States or their auxiliaries. Products or services that may be discussed at this event are not necessarily endorsed by those organizations. You may qualify for benefits other than or in addition to the benefits discussed at this event.

The disclosure would have to be in the same type size and font as the term "veteran" or any variation of that term as used in the event advertisement or promotional material.

The disclosure would have to be disseminated, orally and in writing, at the beginning of any event, presentation, seminar, workshop, or other public gathering regarding veterans' benefits or entitlements.

The disclosure would not apply if any of the entities listed in the disclosure, or any other congressionally chartered or recognized organization of honorably discharged members of the Armed Forces of the United States or their auxiliaries had granted written permission to the advertiser or promoter for the use of its name, symbol, or insignia to advertise or promote events, presentations, seminars, workshops, or other public gatherings described above. The disclosure also would not apply if the event, presentation, seminar, workshop, or gathering were part of an accredited continuing legal education course.

MCL 445.903 et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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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.