

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4117-01
Bill No.: SB 793
Subject: Advertising and Signs; Attorneys; Civil Procedure; Courts; Consumer Protection;
Housing; Liability; Merchandising Practices
Type: Original
Date: February 21, 2020

Bill Summary: This proposal modifies provisions regarding unlawful merchandising practices.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2021	FY 2022	FY 2023
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§407.020 and 407.025 - Provisions regarding unlawful merchandising practices

Officials at the **Office of Administration (OA)** estimate the impact of this bill is \$0 to unknown. OA rarely engages in transactions to which the unlawful merchandising practices law could apply, and OA is not aware of any such claims being brought against it. Civil actions under 407.025, RSMo, may only be brought by a "person" who purchases or leases property "primarily for personal, family or household purposes." A person is defined as a "natural person...partnership, firm, for-profit or not-for-profit corporation,...company, foundation, trust, business entity or association...." § 407.010(5), RSMo. The provisions of Ch. 407 do not appear applicable to most, if any, transactions by OA-Purchasing. On occasion, OA-FMDC conveys property that contains a residence to a third party. However, this is rare.

In the event a claim were brought by or against OA under the merchandising practices act, OA cannot know how the provisions of this bill requiring courts to follow federal interpretation might impact such a claim because it would depend on the facts and circumstances of each case. The exceptions in this bill also appear inapplicable to OA. Any residence sold by OA-FMDC would not be new, so the exception in 407.020.3(3) this bill would not apply. The exception in 407.020.3(4) also appears inapplicable as OA is not a "regulatory body."

Oversight assumes this proposal would rarely affect OA. If and when a case may be brought against OA for unlawful merchandising practices, Oversight assumes the courts will review and interpret the law based on the policies of the Federal Trade Commission and the federal courts on a case by case basis. Oversight is unclear if and when that may take place and will, for now, reflect a \$0 fiscal impact for this proposal.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

ASSUMPTION (continued)

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of the State Courts Administrator**, the **Department of Labor and Industrial Relations**, the **Department of Insurance, Financial Institutions and Professional Registration**, the **Office of Prosecution Services**, the **Department of Health and Senior Services**, the **Department of Conservation**, the **Office of the Attorney General** and the **Missouri Department of Transportation** each assume no fiscal impact to their respective agencies from this proposal.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for the agencies above.

<u>FISCAL IMPACT - State Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2021 (10 Mo.)	FY 2022	FY 2023
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses potentially involved in civil actions could be impacted by this proposal.

FISCAL DESCRIPTION

The proposed legislation appears to have no direct fiscal impact.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
Office of the Secretary of State
Office of the State Courts Administrator
Department of Labor and Industrial Relations
Department of Commerce and Insurance
Office of Prosecution Services
Department of Health and Senior Services
Department of Conservation
Office of the Attorney General
Missouri Department of Transportation



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February 21, 2020



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