



April 3, 2003

**ENGROSSED
SENATE BILL No. 332**

DIGEST OF SB 332 (Updated April 1, 2003 1:55 PM - DI 107)

Citations Affected: IC 4-6.

Synopsis: Consumer protection. Provides that the director of the division and the attorney general have discretion whether to mediate de minimis consumer complaints.

Effective: July 1, 2003.

Lawson C

(HOUSE SPONSORS — FRENZ, THOMAS)

January 15, 2003, read first time and referred to Committee on Commerce and Consumer Affairs.

February 6, 2003, amended, reported favorably — Do Pass.

February 10, 2003, read second time, ordered engrossed.

February 11, 2003, engrossed.

February 13, 2003, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 4, 2003, read first time and referred to Committee on Judiciary.

April 2, 2003, reported — Do Pass.

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ES 332—LS 7153/DI 103+



April 3, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED SENATE BILL No. 332

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-9-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The division has the
3 following powers and duties:

4 (1) The power to investigate any written consumer complaint
5 made by a nonmerchant arising from a transaction between a
6 merchant as defined in the Uniform Commercial Code and a
7 nonmerchant concerning sales, leases, assignments, awards by
8 chance, or other dispositions of goods, services, or repairs, and
9 intangibles to a person for purposes that are primarily personal,
10 familial, household, charitable, or agricultural, or a solicitation to
11 supply any of the above things. When a consumer trades in or
12 sells a motor vehicle to another consumer or nonconsumer, he
13 shall be deemed to be a nonconsumer and shall be subject to the
14 provisions of this chapter. The division shall have no jurisdiction
15 over matters concerning utilities subject to regulation by the
16 utility regulatory commission or by an agency of the United States
17 except that the provisions of subdivision (5) shall apply and

ES 332—LS 7153/DI 103+



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except as provided in IC 8-1-29.

(2) For complaints filed after August 31, 1984, the duty to ascertain from the consumer whether ~~he~~ **the consumer** consents to public disclosure by the division of the filing of the complaint, including ~~his~~ **the consumer's** identity and telephone number, if any.

(3) The duty to notify the merchant of the nature of the complaint by written communication and request a written reply.

(4) Upon receipt of reply, the duty to act as mediator between the parties and attempt to resolve all complaints in a conciliatory manner. **The director of the division and the attorney general have discretion whether to mediate complaints involving a de minimis amount of money.**

(5) If no reply is received or if the parties are unable to resolve their differences, and no violation of federal or state statute or rule is indicated, the duty to provide the complainant with a copy of all correspondence relating to the matter.

(6) Whenever a violation of a state or federal law or administrative rule is indicated, the duty to forward to the appropriate state or federal agency a copy of the correspondence and request that the agency further investigate the complaint and report to the division upon the disposition of the complaint.

(7) The power to initiate and prosecute civil actions on behalf of the state whenever an agency to which a complaint has been forwarded fails to act upon the complaint within ten (10) working days after its referral, or whenever no state agency has jurisdiction over the subject matter of the complaint.

(b) All complaints and correspondence in the possession of the division under this chapter are confidential unless disclosure of a complaint or correspondence is:

- (1) requested by the person who filed the complaint;
- (2) consented to, in whole or in part, after August 31, 1984, by the person who filed the complaint;
- (3) in furtherance of an investigation by a law enforcement agency; or
- (4) necessary for the filing of an action by the attorney general under IC 24-5-0.5.

(c) Notwithstanding subsection (b), the division may publicly disclose information relating to the status of complaints under subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 332, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 2, delete "and before July".

Page 2, line 3, delete "1, 2003,".

Page 2, delete lines 28 through 31.

Page 2, line 32, delete "filed before July 1, 2003,".

Page 2, line 32, delete "related".

Page 2, line 42, delete "**All complaints filed after June 30, 2003, and related**".

Page 3, delete lines 1 through 5.

Page 3, line 6, delete "(d)".

Run in page 2, line 42, through page 3, line 6.

Page 3, line 7, delete "filed before".

Page 3, line 8, delete "July 1, 2003,".

Page 3, delete lines 9 through 16.

and when so amended that said bill do pass.

(Reference is to SB 332 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 332, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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