
SENATE BILL No. 332

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-9-4; IC 34-30-2-2.5.

Synopsis: Consumer protection. Allows the division of consumer protection of the office of the attorney general to disclose certain information in consumer complaints unless the disclosure would endanger the consumer. Provides that the director of the division and the attorney general have discretion whether to mediate de minimis consumer complaints. Provides that neither the attorney general nor the state is liable for the disclosure of information contained in a consumer complaint.

Effective: July 1, 2003.

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

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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.

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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



1 except as provided in IC 8-1-29.

2 (2) For complaints filed after August 31, 1984, **and before July**
 3 **1, 2003**, the duty to ascertain from the consumer whether ~~he~~ **the**
 4 **consumer** consents to public disclosure by the division of the
 5 filing of the complaint, including ~~his~~ **the consumer's** identity and
 6 telephone number, if any.

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

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

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

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

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

28 **(8) For complaints filed after June 30, 2003, the duty to**
 29 **inform the consumer of the public disclosure of the**
 30 **information contained in the complaint other than the**
 31 **consumer's Social Security number.**

32 (b) All complaints **filed before July 1, 2003**, and **related**
 33 correspondence in the possession of the division under this chapter are
 34 confidential unless disclosure of a complaint or correspondence is:

35 (1) requested by the person who filed the complaint;

36 (2) consented to, in whole or in part, after August 31, 1984, by the
 37 person who filed the complaint;

38 (3) in furtherance of an investigation by a law enforcement
 39 agency; or

40 (4) necessary for the filing of an action by the attorney general
 41 under IC 24-5-0.5.

42 (c) **All complaints filed after June 30, 2003, and related**

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1 **correspondence in the possession of the division under this chapter**
 2 **are public information other than the consumer's Social Security**
 3 **number. The division shall not disclose any information contained**
 4 **in a complaint or related correspondence if the division determines**
 5 **that disclosure of the information would endanger the consumer.**

6 (d) Notwithstanding subsection (b), the division may publicly
 7 disclose information relating to the status of complaints **filed before**
 8 **July 1, 2003**, under subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

9 (e) **Neither the attorney general nor the state is liable for the**
 10 **release under this section of any information contained in a**
 11 **consumer complaint.**

12 SECTION 2. IC 34-30-2-2.5 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2003]: **Sec. 2.5. IC 4-6-9-4 (Concerning the attorney general and**
 15 **the state for disclosure of information contained in a consumer**
 16 **complaint).**

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