

Legislative Analysis



CONSUMER PROTECTION ACT: ADVERTISEMENTS OF COINS THAT ARE NOT LEGAL TENDER

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5626 (Substitute H-1)

Sponsor: Rep. Steve Bieda

Committee: Judiciary

First Analysis (3-13-08)

BRIEF SUMMARY: The bill would include written advertisements falsely claiming certain coins are legal tender as an act constituting an unfair trade practice.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact, depending on the number of enforcement actions.

THE APPARENT PROBLEM:

According to testimony offered by a Michigan coin dealer, consumers are being misled by written advertisements that offer "legal tender" coins for sale when in fact those coins are not legal tender either in the U.S. or in the country of origin. In particular, coins commissioned by the government of the Marshall Islands (a former U.S. territory) and the government of the Commonwealth of the Northern Marianas Islands (a current U.S. commonwealth) were advertised as having legal tender status in their respective countries. Unsuspecting buyers have since found that these coins cannot be used as currency nor resold for anything close to the purchase amount; typically, a coin dealer will offer only about 15 percent of the face value of the coin and then resell the coin wholesale to world coin dealers for about 20-25 percent of the coin's face value.

Serious coin dealers believe that one way to discourage companies from using written advertisements to mislead potential buyers into thinking they are buying coins that are legal tender is to include such false advertising under the Consumer Protection Act, as an unfair trade practice.

THE CONTENT OF THE BILL:

The bill would amend the Consumer Protection Act (MCL 445.903) to include the following offense in the act's list of unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce (which are unlawful):

- Failing to clearly and conspicuously disclose in a written advertisement, in at least 10-point boldfaced type, that a coin or medallion is not legal tender of the country of origin and cannot be exchanged or redeemed at face value for currency of that country.

This applies to written advertisements by a mint, engraver, foreign government or authority, or other issuer or manufacturer of a coin or medallion on which a face value and country of origin is engraved, but that is not legal tender of that country at the time the advertisement is published.

It would not apply to a written advertisement by a dealer of coins or medallions not related to or affiliated with the issuer or manufacturer of the coin or medallion.

The bill would define "coin" to mean a metal coin issued by a governmental authority as money or legal tender and would include a coin no longer in circulation. "Legal tender" would mean coins or currency legally permitted to be used to obtain goods or services in a particular country. "Medallion" would be defined as replica of a coin, a collectible metal item commonly known as a "medal", "medallion", or "token", or any other similar numismatic metal item marked with a device or engraving; the term would not include a coin.

[The act is enforced by the Attorney General, local prosecutors, and in some instances by private civil actions.]

ARGUMENTS:

For:

The bill would prohibit a form of advertisement that leads some people to believe they are purchasing coins with legal tender status when in fact they are purchasing pieces of metal that may be worth far less or only their melt-down price. For example, the "coins" commissioned by the Marshall Islands were redeemable by that country's treasury with the required receipt of purchase, but only in the amount of \$10 face value or one coin, whichever was higher, per day, and then only for 50 percent of the face value plus a 50 cent redemption fee. This means that a buyer would receive only \$4.50 for redeeming \$10 worth of coins. Trying to sell them to a legitimate coin dealer or to other coin collectors would fetch less than that. Enactment of the bill may discourage one form of false advertisement, thus providing some consumer protection, as well as triggering the enforcement and civil action provisions of the Consumer Protection Act.

POSITIONS:

A representative of Liberty Coin Service testified in support of the bill. (3-12-08)

Legislative Analyst: Susan Stutzky

Chris Couch

Fiscal Analyst: Viola Bay Wild

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