

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1960-01  
Bill No.: HB 902  
Subject: Business and Commerce; Courts; Merchandising Practices  
Type: Original  
Date: April 10, 2007

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Bill Summary: Changes laws relating to merchandising practices.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(\$64,531)	(\$69,841)	(\$71,938)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$64,531)</b>	<b>(\$69,841)</b>	<b>(\$71,938)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	1	1	1
<b>Total Estimated Net Effect on FTE</b>	<b>1</b>	<b>1</b>	<b>1</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

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### ASSUMPTION

Officials from the **Office of State Courts Administrator** and **Department of Economic Development** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of the Attorney General (AGO)** assume it would require 2 Assistant Attorneys General II (each at \$37,500 per year) to research federal regulation under Federal Trade Commission (FTC) rules and the rules of any other federal or state regulatory body.

Under current law, there is no reference to FTC rules in Missouri's consumer laws. This proposal will impact a number of consumer cases and these cases would be more expensive to bring forward because the AGO would have to provide background for the court about whether any applicable FTC rules apply. If such rules do apply, the AGO would have to research those rules and relevant decisions under those rules in bringing its case.

Finally, the AGO would have to determine which cases do not fall under this proposal because the language of subsection 2 states that "this section shall not apply to actions or transactions otherwise permitted or approved by the Federal Trade Commission or any other regulatory body or officer acting under statutory authority of this state or the United States."

The AGO estimates the total cost of the proposal to be approximately \$129,060 in FY 08, \$139,682 in FY 09, and \$143,873 in FY 10.

Based on discussions with AGO staff, **Oversight** assumes the AGO will be able to meet the requirements of this proposal with 1 FTE AAG II. However, if the number of cases/workload is considerably greater than anticipated, the AGO can request additional funding through the appropriations process.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Costs - AGO</u>			
Personal service costs (1.0 FTE)	(\$32,188)	(\$39,784)	(\$40,978)
Fringe benefits	(\$14,568)	(\$18,006)	(\$18,547)
Equipment and expense	<u>(\$17,775)</u>	<u>(\$12,051)</u>	<u>(\$12,413)</u>
Total Costs - AGO	<u>(\$64,531)</u>	<u>(\$69,841)</u>	<u>(\$71,938)</u>
FTE Change - AGO	1.0 FTE	1.0 FTE	1.0 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$64,531)</u></b>	<b><u>(\$69,841)</u></b>	<b><u>(\$71,938)</u></b>
Estimated Net FTE Change for General Revenue Fund	1.0 FTE	1.0 FTE	1.0 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal changes the laws regarding merchandising practices. Missouri courts are required to use the policies of the Federal Trade Commission and interpretations given by the commission and the federal courts to the Federal Trade Commission Act in cases relating to unfair practices in merchandising. Recovery in a civil action against a seller for unfair merchandising practices is limited to an amount equal to the difference between the amount paid for the good or service and the actual market value of the good or service. Class action plaintiffs are required to prove that the unfair actions of the seller caused each class action plaintiff to purchase the good or service. Each plaintiff is also required to submit a statement requesting a specific dollar amount and providing information regarding the nature of his or her loss or injury. The proposal requires any judgment to identify each plaintiff and his or her individual monetary award and authorizes the court to determine an award of reasonable fees for the attorney representing the class of plaintiffs.

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

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SOURCES OF INFORMATION

Office of Attorney General  
Office of State Courts Administrator  
Department of Economic Development

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
April 10, 2007