

SHOPPING REFORM AND MODERNIZATION ACT (EXCERPT)
Act 15 of 2011

***** 445.320.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2011 *****

445.320.new Injunction; proceeding; assurance of discontinuance of act or practice; forwarding of notice of violation; civil fine; rules.

Sec. 10. (1) The attorney general may maintain an action to enjoin a continuing violation of this act. If the court finds that the defendant is violating or has violated this act, it shall enjoin the defendant from continuing that violation. It is not necessary that actual damages to a person are alleged or proved for a court to enjoin a defendant under this section.

(2) The attorney general shall not institute a proceeding for an injunction under this section unless the attorney general has notified the defendant of his or her intention to seek an injunction if the defendant does not cease and desist or take positive action to cease and desist from continuing to act in a manner that violates this act. The attorney general must provide this notice at least 48 hours before instituting the proceeding. A court shall not issue the injunction if the defendant ceased, or took positive action to cease and desist, violating this act after receiving the notice from the attorney general.

(3) The attorney general may accept an assurance of discontinuance of an act or practice alleged to be a violation of this act from the person engaging in, or that was engaged in, that act or practice. An assurance of discontinuance shall be in writing and be filed with the clerk of the circuit court of the county in which the alleged violator resides or has its principal place of business. A filing fee is not required for the filing of an assurance of discontinuance with the clerk of the circuit court. An assurance of discontinuance shall be signed by the alleged violator and shall contain a statement describing each act or practice to which the assurance of discontinuance applies and the specific provisions of this act prohibiting that act or practice. An assurance of discontinuance is not considered an admission of any fact or issue at law.

(4) If a prosecuting attorney or law enforcement officer receives notice of an alleged violation of this act, of a violation of an injunction, order, decree, or judgment issued in an action brought under this section, or of an assurance of discontinuance given under subsection (3), he or she shall immediately forward written notice of the violation, and any information he or she has concerning the violation, to the office of the attorney general.

(5) A person that knowingly violates this act or the terms of an injunction, order, decree, or judgment issued under this section shall pay to the state a civil fine of not more than \$1,000.00 for the first violation and not more than \$5,000.00 for the second and any subsequent violation. For the purposes of this subsection, the court that issues an injunction, order, decree, or judgment under this section retains jurisdiction, the action is continued, and the attorney general may petition for recovery of the civil fine described in this subsection.

(6) The attorney general may promulgate rules to implement and administer this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2011, Act 15, Eff. Sept. 1, 2011.