

State senators eye consumer protection

By SUSAN L. SILK

A broad and powerful consumer protection act, or no legislation at all, were the diverse arguments presented during a daylong hearing of the State Senate Judiciary Committee on Monday in the Oakland County Courthouse.

The sparsely attended session was conducted by state senators Donald D. Bishop R-Avon Township and Daniel S. Cooper (D-Oak Park) who make up the judiciary committee's civil subcommittee.

REPRESENTATIVES of the consumer protection movement and business and corporate interests offered the senators their reactions to the Michigan Consumer Protection Act, currently under study by the judiciary committee.

The bill, which has passed the House, specifically outlaws 25 acts called "unfair and unconscionable," and provides for the future banning of other practices felt to be fraudulent.

THE ATTORNEY general and each county prosecutor are allowed, under the proposed legislation the following powers:

- Make full criminal investigation of a suspected fraud
- Subpoena records and personnel
- Initiate class action suits
- Make future rules updating outlawed

- practices
- Seek injunctive relief
- Collect damages.

"It's becoming an American way of life to deceive the public," said Kathleen Hopkins, of the Washnaw County Consumer Action Center.

Only about one percent of the complaints her division receives can be prosecuted due to a "Lack of statutory mandate," Miss Hopkins said.

"Little can be done under existing law to relieve the consumer," said Albert G. Isaac, of the attorney general's consumer fraud division.

THE PROPOSED legislation provides the attorney general with needed "broad investigative and prosecuting ability," Isaac said.

In defense of the future rule-making provision in the act, Isaac said it would be impossible now to spell out all future deceptive acts.

"Once you outline all the things that could be illegal, the sharp ones will come along and get around it," said Isaac.

COOPER AND Bishop interrupted Isaac's testimony to voice their objection to the proposed rule-making ability.

The legislation allows "the prosecution to do by rule what the legislature does by act," Bishop said.

"In this country it's frightening

to give any law enforcement agency carte blanche powers," Cooper said.

Chrysler Corp. representative Hiram P. Todd, Jr., calling the national firm "Consumer oriented," referred to the proposed legislation as "unnecessary and costly to the consumer."

THE ACT duplicates the existing federal legislation, Todd said. Upon questioning, however, he admitted that Federal Trade Commission (FTC) rules do not govern activities of dealerships.

"Harassment" and "unbridled interrogation" of the act's subpoena power would mean high legal fees — a cost transmitted to the car buyer, Todd said.

"I don't like class action suits in general and don't think the attorney general should be made an agent of the public in this case," Todd said.

THOMAS G. Cordell, Michigan Petroleum Association representative, said the proposed legislation gives the attorney general "unlimited powers of deciding what is right and what is wrong, what is lawful and what is not."

The courts, not the attorney general, would be the final arbitrator, according to Genesee County Prosecutor Robert Leonard.

Leonard charged that 48 states have already enacted consumer protection acts, but in Michigan such an act has been pending for years and killed in legislative committee.

"APPARENTLY Michigan citizens are second class," and the state senate a "graveyard of consumer hopes," Leonard said.

Injunctive relief and the future rules provisions were cited as especially important, according to Leonard.

"Overkill is written into the proposed legislation and overkill is what is sought by its proponents," said Jack W. Rose, Michigan Chain Store Council representative.

Rose said his group had worked with the attorney general's office for a year until the "wheel came off the buggy"—referring to amendment of broad powers and vague terms.

THE 300-MEMBER Fair Business Practices Association feels that existing laws are "appropriate," group spokesman Larry Malo said.

"I don't think crooks can exist in our society for long," said Malo, president of the Karate Schools of America.

The act's provision for subpoena power and "call-ins" to the attorney general's office "is coercion — 100 percent," Malo said.

"We don't need this police, gestapo power," said Malo.

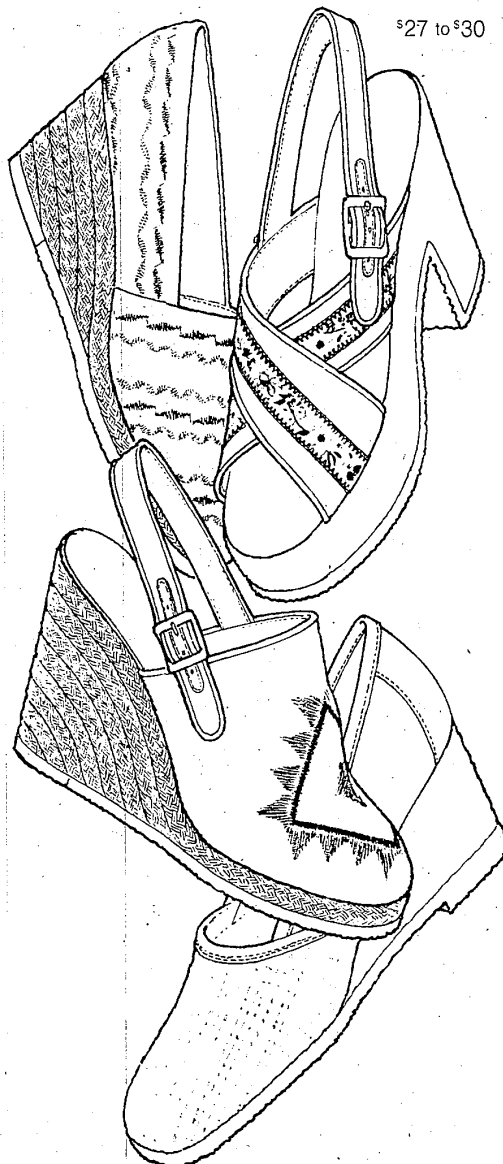
COOPER SAID he had concluded that the act, as now constructed, may be more damaging to small business than large firms, better able to afford to protect and defend themselves.

"I'm skeptical about people who promise more and more things and just ask for more and more power," Cooper said.

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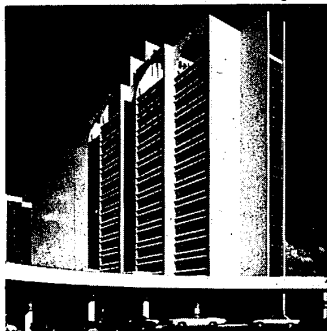


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