

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	0

MR. SPEAKER:

*Your Committee on Judiciary, to which was referred Senate Bill 267, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, after line 6, begin a new paragraph and insert:
- 2 "SECTION 2. IC 4-6-9-4 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The division has the
- 4 following powers and duties:
- 5 (1) The power to investigate any written consumer complaint
- 6 made by a nonmerchant arising from a transaction between a
- 7 merchant as defined in the Uniform Commercial Code and a
- 8 nonmerchant concerning sales, leases, assignments, awards by
- 9 chance, or other dispositions of goods, services, or repairs, and
- 10 intangibles to a person for purposes that are primarily personal,
- 11 familial, household, charitable, or agricultural, or a solicitation to
- 12 supply any of the above things. When a consumer trades in or
- 13 sells a motor vehicle to another consumer or nonconsumer, he
- 14 shall be deemed to be a nonconsumer and shall be subject to the

1 provisions of this chapter. The division shall have no jurisdiction
2 over matters concerning utilities subject to regulation by the
3 utility regulatory commission or by an agency of the United States
4 except that the provisions of subdivision (5) shall apply and
5 except as provided in IC 8-1-29.

6 (2) For complaints filed after August 31, 1984, the duty to
7 ascertain from the consumer whether the consumer consents to
8 public disclosure by the division of the filing of the complaint,
9 including the consumer's identity and telephone number, if any.

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

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

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

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

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

31 (b) All complaints and correspondence in the possession of the
32 division under this chapter are confidential unless disclosure of a
33 complaint or correspondence is:

- 34 (1) requested by the person who filed the complaint;
35 (2) consented to, in whole or in part, after August 31, 1984, by the
36 person who filed the complaint;
37 (3) in furtherance of an investigation by a law enforcement
38 agency; or

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

3 (c) Notwithstanding subsection (b), the division may publicly
4 disclose information relating to the status of complaints under
5 subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

6 **(d) Except for a residential telephone number published in the**
7 **most recent quarterly telephone sales solicitation listing by the**
8 **division under IC 24-4.7-3 and except as provided in subsection (e),**
9 **all consumer information provided for the purposes of registering**
10 **for or maintaining the no telephone sales solicitation listing is**
11 **confidential.**

12 **(e) The name, address, and telephone number of a registrant of**
13 **the most recent quarterly no telephone sales solicitation listing may**

1 **be released for journalistic purposes if the registrant consents to**
2 **the release of information after June 30, 2007."**

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 267 as printed January 26, 2007.)

and when so amended that said bill do pass.

Representative Lawson L