



MEMORANDUM

To: Members of the Senate Finance, Insurance and Consumer Protection

From: Alex Houseman, Big I Michigan
 Joelle Demand, Broadband Association of Michigan
 Brian Shoaf, Detroit Regional Chamber
 Josh Lunger, Grand Rapids Chamber
 Richie Farran, Health Care Association of Michigan
 Dawn Crandall, Home Builders Association of Michigan
 Dyck Van Koevering, Insurance Alliance of Michigan
 Bob Doyle, Michigan Association of CPAs
 John Lindley, Michigan Association of RVs & Campgrounds, Michigan Manufactured Housing Association
 Kurt Berryman, Michigan Automobile Dealers Association
 Patricia Herndon, Michigan Bankers Association
 Stephen Rapundalo, Mich Bio
 Wendy Block, Michigan Chamber
 Kieran Marion, Michigan Credit Union League
 Rob Anderson, Michigan Farm Bureau
 Jared Rozycki, Michigan Funeral Directors Association
 Michael Frederick, Michigan Ground Water Association
 Elizabeth Kutter, Michigan Health & Hospital Association
 Lance Binoniemi, Michigan Infrastructure and Transportation Association
 Scott Ellis, Michigan Licensed Beverage Association
 Dave Worthams, Michigan Manufacturers Association
 Brad Ward, Michigan Realtors®
 Amy Drumm, Michigan Retailers Association
 Tom George, M.D., Michigan State Medical Society
 Amanda Fisher, National Federation of Independent Business
 Kelli Saunders, Small Business Association of Michigan

Date: Nov. 12, 2024

Subject: Business Groups Voice Opposition to SB 1022

We are writing to voice our opposition to Senate Bill 1022, specifically the repeal of the regulatory compliance exemption under the Michigan Consumer Protection Act (MCPA).

The MCPA currently does not apply to “[a] transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States.” In its *Globe* decision, the Michigan Supreme Court (MSC) interpreted this to mean the following: if a person or company is licensed or approved to engage in a certain business or profession, and the transaction at issue falls within the scope of that license, that conduct falls *outside* the MPCA.

While the *Globe* ruling (and subsequent rulings) do not give a *complete* exemption to regulated industries from the MCPA (i.e., if the person or business is operating outside the scope of the occupation or profession, there could be an MCPA claim), they do provide protections.

If the legislation is passed, nearly every industry and profession regulated under state and federal law will be subject to lawsuits, including class action lawsuits, under the MCPA, including:

- Hospitals
- Real estate brokers, agents, appraisers and schools
- Accountants
- Collection agents and agencies
- Insurance agents
- Personnel agents and agencies
- Employment agents and agencies
- Consultant agents and agencies
- Morticians
- Funeral homes
- Cemeteries
- Architects
- Engineers
- Surveyors
- Foresters
- Landscape architects
- Community planners
- Residential builders
- Residential maintenance and construction contractors
- Alcoholic beverage wholesalers and retailers
- Telecommunications companies
- Automakers
- Auto dealers and dealerships
- Owners/operators/developers of condo projects
- Residential builders and maintenance and construction contractors’ salespersons
- Chiropractors
- Dentists
- Audiologists
- Therapists
- Physicians
- Nurses
- Optometrists
- Nursing homes
- Pharmacists
- Physical therapists
- Counselors
- Podiatrists
- Psychologists
- Physician assistants
- Plumbers
- Medical device retailers
- Forensic polygraph examiners
- Land surveyors
- Occupational therapists
- Sanitarians
- Social workers
- Veterinarians
- Respiratory care professionals
- Mechanics
- Motor vehicle repair facilities
- Limousine companies
- Railroads
- Airlines
- Owners/operators of manufactured housing communities

- Local governments (relative to the services they provide)
- Investment brokers/advisors
- Finance Companies
- Mortgage brokers and lenders
- Casinos
- Horse racing tracks
- National banks
- Federal credit unions
- Firearm manufacturers and dealers
- Pharmaceutical companies
- Cosmetic retailers
- Grain dealers
- Livestock dealers
- Horse breeders
- Pet shops
- Dog pounds
- Animal shelters
- Barbershop schools
- Cosmetology schools
- Barbers
- Barber shops
- Cosmetologists
- Electrologists
- Manicurists
- Estheticians
- Hearing aid dealers, retailers and salespersons
- Insurers

Layering on another level of lawsuits does little to protect consumers and much to burden Michigan businesses. In fact, most of the businesses that would be affected by a decision overturning *Smith* and *Liss* are not large multinational corporations — they are small- to medium-sized businesses and individual practitioners who cannot afford to defend a wellspring of newly authorized consumer lawsuits.

We respectfully encourage you to preserve the current test under the MCL 445.904(1)(a), which effectively balances the interests of consumers with the interests of Michigan businesses and professional services providers. The MCPA provides consumers an avenue to redress injuries inflicted by “unfair, unconscionable, or deceptive methods, acts, or practices” (MCL 445.903), but it recognizes that, in highly regulated industries, regulations already exist to serve as safeguards against that kind of deceptive conduct (MCL 445.904(1)(a)). We encourage retention of this well-functioning and well-settled balance.

Thank you for your consideration. Please contact any of the individuals on this memo with questions.