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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 4073

03/21/2018 Authored by Rosenthal, Lien, Olson and Maye Quade
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to consumer fraud; changing provisions governing deceptive acts; amending
1.3 Minnesota Statutes 2016, section 325F.71.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2016, section 325F.71, is amended to read:

1.6 **325F.71 SENIOR CITIZENS, VULNERABLE ADULTS, AND ~~DISABLED~~**
1.7 **PERSONS WITH DISABILITIES; ADDITIONAL CIVIL PENALTY FOR**
1.8 **DECEPTIVE ACTS.**

1.9 Subdivision 1. **Definitions.** For the purposes of this section, the following words have
1.10 the meanings given them:

1.11 (a) "Senior citizen" means a person who is 62 years of age or older.

1.12 (b) "~~Disabled~~ Person with a disability" means a person who has an impairment of physical
1.13 or mental function or emotional status that substantially limits one or more major life
1.14 activities.

1.15 (c) "Major life activities" means functions such as caring for one's self, performing
1.16 manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

1.17 (d) "Vulnerable adult" has the meaning given in section 626.5572, subdivision 21.

1.18 Subd. 2. **Supplemental civil penalty.** (a) In addition to any liability for a civil penalty
1.19 pursuant to sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67,
1.20 regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person
1.21 who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated

2.1 against one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a disability,
 2.2 is liable for an additional civil penalty not to exceed \$10,000 for each violation, if one or
 2.3 more of the factors in paragraph (b) are present.

2.4 (b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the
 2.5 amount of the penalty, the court shall consider, in addition to other appropriate factors, the
 2.6 extent to which one or more of the following factors are present:

2.7 (1) whether the defendant knew or should have known that the defendant's conduct was
 2.8 directed to one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
 2.9 disability;

2.10 (2) whether the defendant's conduct caused one or more senior citizens, vulnerable adults,
 2.11 or ~~disabled~~ persons with a disability to suffer: loss or encumbrance of a primary residence,
 2.12 principal employment, or source of income; substantial loss of property set aside for
 2.13 retirement or for personal or family care and maintenance; substantial loss of payments
 2.14 received under a pension or retirement plan or a government benefits program; or assets
 2.15 essential to the health or welfare of the senior citizen, vulnerable adult, or ~~disabled~~ person
 2.16 with a disability;

2.17 (3) whether one or more senior citizens, vulnerable adults, or ~~disabled~~ persons with a
 2.18 disability are more vulnerable to the defendant's conduct than other members of the public
 2.19 because of age, poor health or infirmity, impaired understanding, restricted mobility, or
 2.20 disability, and actually suffered physical, emotional, or economic damage resulting from
 2.21 the defendant's conduct; ~~or~~

2.22 (4) whether the defendant's conduct caused senior citizens, vulnerable adults, or ~~disabled~~
 2.23 persons with a disability to make an uncompensated asset transfer that resulted in the person
 2.24 being found ineligible for medical assistance; or

2.25 (5) whether the defendant provided or arranged for health care or services that are inferior
 2.26 to, substantially different than, or substantially more expensive than offered, promised,
 2.27 marketed, or advertised.

2.28 Subd. 3. **Restitution to be given priority.** Restitution ordered pursuant to the statutes
 2.29 listed in subdivision 2 shall be given priority over imposition of civil penalties designated
 2.30 by the court under this section.

2.31 Subd. 4. **Private remedies.** A person injured by a violation of this section may bring a
 2.32 civil action and recover damages, together with costs and disbursements, including costs

- 3.1 of investigation and reasonable attorney's fees, and receive other equitable relief as
- 3.2 determined by the court.