

CHAPTER 294—S.F.No. 536

An act relating to consumer protection; providing for enhanced civil penalties for deceptive acts targeted at senior citizens or handicapped persons; providing factors a court may consider in determining to impose an enhanced civil penalty; providing that sums collected must be credited to the account of the state board on aging; amending Minnesota Statutes 1988, section 256.975, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

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

Section. 1. Minnesota Statutes 1988, section 256.975, is amended by adding a subdivision to read:

Subd. 5. PROGRAMS FOR SENIOR CITIZENS AND HANDICAPPED PERSONS. Any sums collected under section 2 must be deposited into the state treasury and credited to the account of the state board on aging. The money credited to the account of the state board on aging is annually appropriated to the state board on aging and shall be expended for the following purposes:

(1) to prepare and distribute educational materials to inform senior citizens, handicapped persons, and the public regarding consumer protection laws and consumer rights that are of particular interest to senior citizens and handicapped persons; or

(2) to underwrite educational seminars and other forms of educational projects for the benefit of senior citizens and handicapped persons.

Sec. 2. [325F.71] SENIOR CITIZENS AND HANDICAPPED PERSONS; ADDITIONAL CIVIL PENALTY FOR DECEPTIVE ACTS.

Subdivision 1. DEFINITIONS. For the purposes of this section, the following words have the meanings given them:

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

(b) "Handicapped person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities.

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

Subd. 2. SUPPLEMENTAL CIVIL PENALTY. (a) In addition to any liability for a civil penalty pursuant to Minnesota Statutes, sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67, regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated against one or more senior citizens or handicapped persons, is liable for an

New language is indicated by underline, deletions by strikeout.

additional civil penalty not to exceed \$10,000 for each violation, if one or more of the factors in paragraph (b) are present.

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

(1) whether the defendant knew or should have known that the defendant's conduct was directed to one or more senior citizens or handicapped persons;

(2) whether the defendant's conduct caused senior citizens or handicapped persons to suffer; loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement or for personal or family care and maintenance; substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or handicapped person;

(3) whether one or more senior citizens or handicapped persons are more vulnerable to the defendant's conduct than other members of the public because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct.

Subd. 3. RESTITUTION TO BE GIVEN PRIORITY. Restitution ordered pursuant to the statutes listed in subdivision 2 shall be given priority over imposition of civil penalties designated by the court under this section.

Subd. 4. PRIVATE REMEDIES. A person injured by a violation of this section may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 5:44 p.m.

CHAPTER 295—H.F.No. 1454

An act relating to Itasca county; authorizing a petition to annex unorganized territory to the town of Spang to be signed by residents of the town.

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

Section 1. SPANG TOWNSHIP; ATTACHMENT PETITION.

New language is indicated by underline, deletions by ~~strikeout~~.