

SENATE BILL NO. 57

INTRODUCED BY G. VUCKOVICH

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ADDITIONAL CIVIL PENALTY FOR A VIOLATION OF THE MONTANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT OF 1973 IF THE VICTIM IS ELDERLY OR A PERSON WITH DEVELOPMENTAL DISABILITIES; PROVIDING FOR DISPOSITION OF FINES; AND AMENDING SECTION 30-14-143, MCA."

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

NEW SECTION. Section 1. Additional penalty for unfair or deceptive act committed against elderly person or person with developmental disability. (1) In addition to any civil penalty imposed pursuant to 30-14-142, a person who engages in a practice made unlawful by 30-14-103 and whose conduct is perpetrated against an older person, as defined in 52-3-803, or against a person with a developmental disability, as defined in 53-20-102, is liable for an additional civil penalty not to exceed \$10,000 for each violation if the court finds one or more of the following factors to be present:

(a) the defendant knew or should have known that the defendant's conduct was directed to one or more older or developmentally disabled persons;

(b) the defendant's conduct caused an older or developmentally disabled person to suffer one of the following:

- (i) loss or encumbrance of a primary residence;
- (ii) loss of principal employment or other source of income;
- (iii) substantial loss of property set aside for retirement or for personal or family care and maintenance;
- (iv) substantial loss of payments received under a pension or retirement plan or a government benefits program; or
- (v) loss of assets essential to the health or welfare of the older or disabled person.

(2) Damages awarded in an action provided for in 30-14-133 must be given priority over imposition of civil penalties ordered by the court under this section.

