

## 1 HOUSE BILL NO. 287

2 INTRODUCED BY D. SALOMON

3 BY REQUEST OF THE ATTORNEY GENERAL

4

5

6 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ADDITIONAL CIVIL PENALTY FOR A  
7 VIOLATION OF THE MONTANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT OF 1973  
8 IF THE VICTIM IS AN OLDER PERSON OR DEVELOPMENTALLY DISABLED; PROVIDING FOR  
9 DISPOSITION OF FINES; AND AMENDING SECTION 30-14-143, MCA."

10

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

12

13 **NEW SECTION. Section 1. Additional penalty for unfair or deceptive act committed against older**  
14 **person or developmentally disabled person.** (1) In addition to any civil penalty imposed pursuant to 30-14-142,  
15 a person who engages in a practice unlawful under 30-14-103 and whose conduct is perpetrated against an older  
16 person or against a developmentally disabled person is liable for an additional civil penalty not to exceed \$10,000  
17 for each violation if the court finds that:

18 (a) the person knew or should have known that the person's conduct was directed toward one or more  
19 older or developmentally disabled persons; or

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

22 (i) loss or encumbrance of a primary residence;

23 (ii) loss of principal employment or other source of income;

24 (iii) substantial loss of property set aside for retirement or for personal or family care and maintenance;

25 (iv) substantial loss of payments received under a pension or retirement plan or a government benefits  
26 program; or

27 (v) loss of assets essential to the health or welfare of the older or disabled person.

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

30 (3) As used in this section:

1 (a) "developmentally disabled person" means a person with a developmental disability as defined in  
2 53-20-102; and

3 (b) "older person" has the meaning provided in 52-3-803.  
4

5 **Section 2.** Section 30-14-143, MCA, is amended to read:

6 **"30-14-143. Disposition of civil fines, costs, and fees.** (1) ~~At (a)~~ Except as provided in subsection  
7 (1)(b), all civil fines, costs, and fees received or recovered by the department pursuant to this part must be  
8 deposited into a state special revenue account to the credit of the department and must be used to defray the  
9 expenses of the department in discharging its administrative and regulatory powers and duties in relation to this  
10 part. Any excess civil fines, costs, or fees must be transferred to the general fund.

11 (b) All civil fines received or recovered by the department pursuant to [section 1] must be deposited in  
12 the general fund.

13 (2) All civil fines, costs, and fees received or recovered by a county attorney pursuant to this part must  
14 be paid to the general fund of the county in which the action was commenced."  
15

16 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
17 integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to [section 1].  
18

19 NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,  
20 penalties that were incurred, or proceedings that were begun before [the effective date of this act].  
21

- END -