

HOUSE BILL NO. 287

INTRODUCED BY SALOMON, VUCKOVICH  
BY REQUEST OF THE ATTORNEY GENERAL

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 AN OLDER PERSON OR DEVELOPMENTALLY DISABLED; 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 older person or developmentally disabled person.** (1) In addition to any civil penalty imposed pursuant to 30-14-142, a person who engages in a practice unlawful under 30-14-103 and whose conduct is perpetrated against an older person or against a developmentally disabled person is liable for an additional civil penalty not to exceed \$10,000 for each violation if the court finds that:

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

(b) the person'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 under 30-14-133 must be given priority over imposition of civil penalties ordered by the court under this section.

(3) As used in this section:

(a) "developmentally disabled person" means a person with a developmental disability as defined in

1 53-20-102; and

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

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

5 **"30-14-143. Disposition of civil fines, costs, and fees.** (1) At (a) Except as provided in subsection  
6 (1)(b), all civil fines, costs, and fees received or recovered by the department pursuant to this part must be  
7 deposited into a state special revenue account to the credit of the department and must be used to defray the  
8 expenses of the department in discharging its administrative and regulatory powers and duties in relation to this  
9 part. Any excess civil fines, costs, or fees must be transferred to the general fund.

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

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

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

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

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