

1 HOUSE BILL NO. 472

2 INTRODUCED BY M. REGIER, S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CIVIL LIABILITY UNDER THE CONSUMER
5 PROTECTION ACT; LIMITING TREBLE DAMAGES; LIMITING AWARDS OF ATTORNEY FEES; AND
6 AMENDING SECTION 30-14-133, MCA."

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

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10 **Section 1.** Section 30-14-133, MCA, is amended to read:11 **"30-14-133. Damages -- notice to public agencies -- attorney fees -- prior judgment as evidence.**

12 (1) A consumer who suffers any ascertainable loss of money or property, real or personal, as a result of the use
13 or employment by another person of a method, act, or practice declared unlawful by 30-14-103 may bring an
14 individual action but not a class action under the rules of civil procedure in the district court of the county in
15 which the seller, lessor, or service provider resides or has its principal place of business or is doing business to
16 recover ~~actual damages~~ MONEY DAMAGES IN THE AMOUNT OF ANY ASCERTAINABLE LOSS OF MONEY OR PROPERTY OR
17 \$500, whichever is greater. An individual claim may be brought in justice's court. The court may NOT AWARD
18 PUNITIVE DAMAGES BUT MAY, in its discretion, award up to three times the actual damages MONEY DAMAGES IN THE
19 AMOUNT OF ANY ASCERTAINABLE LOSS OF MONEY OR PROPERTY sustained, if actual damages do not exceed
20 \$100,000, and may provide any other equitable relief that it considers necessary or proper.

21 (2) Upon commencement of any action brought under subsection (1), the clerk of court shall mail a
22 copy of the complaint or initial pleading to the department and the appropriate county attorney and, upon entry
23 of any judgment or decree in the action, shall mail a copy of the judgment or decree to the department and the
24 appropriate county attorney.

25 (3) In any action brought under this section, the court may award the prevailing party reasonable
26 attorney fees incurred in prosecuting or defending the action, except that attorney fees may not be awarded if
27 the consumer recovers actual damages of \$100,000 or more. ATTORNEY FEES ARE LIMITED TO NO MORE THAN
28 \$250 AN HOUR. A person who brings an action on the person's own behalf without an attorney may receive

1 attorney fees at the judge's discretion.

2 (4) Any permanent injunction, judgment, or order of the court made under 30-14-111 is prima facie
3 evidence in an action brought under this section that the respondent used or employed a method, act, or
4 practice declared unlawful by 30-14-103."

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