62nd Legislature SB0057.02

1	SENATE BILL NO. 57
2	INTRODUCED BY G. VUCKOVICH
3	BY REQUEST OF THE DEPARTMENT OF JUSTICE
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5	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN ADDITIONAL CIVIL PENALTY FOR A
6	VIOLATION OF THE MONTANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT OF 1973
7	IF THE VICTIM IS ELDERLY OR A PERSON WITH DEVELOPMENTAL DISABILITIES; PROVIDING FOR
8	DISPOSITION OF FINES; AND AMENDING SECTION 30-14-143, MCA."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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12	$\underline{\sf NEWSECTION.} \ \ \textbf{Section 1. Additional penalty for unfair or deceptive act committed against elderly}$
13	person or person with developmental disability. (1) In addition to any civil penalty imposed pursuant to
14	30-14-142, a person who engages in a practice made unlawful by 30-14-103 and whose conduct is perpetrated
15	against an older person, as defined in 52-3-803, or against a person with a developmental disability, as defined
16	in 53-20-102, is liable for an additional civil penalty not to exceed \$10,000 for each violation if the court finds one
17	or more of the following factors to be present:
18	(a) the defendant knew or should have known that the defendant's conduct was directed to one or more
19	older or developmentally disabled persons;
20	(b) the defendant'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 provided for in 30-14-133 must be given priority over imposition of
29	civil penalties ordered by the court under this section.
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SECTION 2. SECTION 30-14-143, MCA, IS AMENDED TO READ:
"30-14-143. Disposition of civil fines, costs, and fees. (1) All (a) Except as provided in subsection
(1)(b), all civil fines, costs, and fees received or recovered by the department pursuant to this part must be
deposited into a state special revenue account to the credit of the department and must be used to defray the
expenses of the department in discharging its administrative and regulatory powers and duties in relation to this
part. Any excess civil fines, costs, or fees must be transferred to the general fund.
(b) All civil fines received or recovered by the department pursuant to [section 1] must be deposited into
the general fund.
(2) All civil fines, costs, and fees received or recovered by a county attorney pursuant to this part must
be paid to the general fund of the county in which the action was commenced."
NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to [section 1].
NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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