

HOUSE No. 531

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act increasing the penalties for unfair and deceptive actions perpetrated against persons with disabilities and senior citizens..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws, as appearing in the 2004 Official Edition,
2 is hereby amended by inserting, after Section 2NNN, as inserted by section 50 of chapter 43 of
3 the Acts of 1997, the following new section:—

4 Section 2000. There is hereby established and set up on the books of the commonwealth
5 a separate fund to be known as the Senior Citizens and Disabled Persons Abuse Prevention Fund.
6 There shall be credited to said fund all revenues which are generated under the provisions of
7 section 4 of chapter 93A which are in excess of any such revenues which were collected during
8 each fiscal year. Amounts credited to said fund shall be available for expenditure, subject to
9 appropriation, to

10 (1) prepare and distribute educational materials to inform senior citizens, disabled
11 persons and other citizens of the commonwealth regarding consumer protection laws and
12 consumer rights that are of particular interest to senior citizens or disabled persons, and

13 (2) to underwrite educational seminars and other forms of education and projects
14 designed to explain deceptive investment or marketing practices which have historically targeted
15 senior citizens and disabled persons.

16 SECTION 2. Section 1 of Chapter 93A of the General Laws, as appearing in the 2004
17 Official Edition, is hereby amended by inserting the following paragraphs:—

18 (e) “Senior Citizen”, a person who is at least 65 years of age.

19 (f) “Persons with disabilities”, a person who has a physical or mental impairment which
20 substantially limits one or more fundamental life activities. For the purposes of this paragraph,
21 “physical or mental impairment” shall include such diseases or conditions as orthopedic, visual,
22 speech and hearing impairment, cancer, heart disease, diabetes, mental retardation, and
23 emotional illness; “fundamental life activities” shall include activities such as caring for one’s
24 self, performing annual tasks, walking, seeing, hearing, speaking, breathing, learning and
25 working.

26 SECTION 3. Section 4 of chapter 93A of the General Laws, as appearing in the 2004
27 Official Edition, is hereby amended by inserting the following at the end of the first
28 paragraph:—

29 “The court may also require such person to pay to the Commonwealth an additional civil
30 penalty of not more than \$2,500 for each such violation if the court finds that each violation was
31 perpetrated against one or more senior citizens or persons with disabilities.

32 In determining whether to impose the additional civil penalty pursuant to this section and
33 the amount thereof, the court shall consider, in addition to any other appropriate factors, the
34 extent to which one or more of the following factors are present:

35 (1) Whether the defendant knew or should have known that his or her conduct was
36 directed at one or more senior citizens or persons with disabilities.

37 (2) Whether the defendant's conduct caused one or more senior citizens or persons with
38 disabilities to suffer: loss or encumbrance of a primary residence, principal employment, or
39 source of income; substantial loss of property or assets set aside or held for retirement or for
40 personal or family care and maintenance; substantial loss of payments received under a pension
41 or retirement plan or a government benefits program; or assets essential to the health or welfare
42 of the senior citizens or persons with disabilities.

43 (3) Whether one or more senior citizens or persons with disabilities are substantially
44 more vulnerable than other members of the public to the defendant's conduct because of age,
45 poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually
46 suffered substantial physical, emotional or economic damage resulting from the defendant's
47 conduct.”