

HOUSE No. 597

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce J. Ayers

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>1/9/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/30/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/29/2019</i>
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>1/31/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>1/30/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>1/31/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/29/2019</i>
<i>John H. Rogers</i>	<i>12th Norfolk</i>	<i>2/1/2019</i>

HOUSE No. 597

By Mr. Ayers of Quincy, a petition (accompanied by bill, House, No. 597) of Bruce J. Ayers and others relative to deceptive actions perpetrated against elderly and disabled persons. Elder Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 334 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

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 is hereby amended by inserting, after
2 Section 2NNN, as inserted by section 50 of chapter 43 of the Acts of 1997, the following new
3 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 is hereby amended by
17 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 is hereby amended by
27 inserting the following at the end of the first paragraph:—

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

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

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

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

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