

HOUSE No.

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 passage 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:
Bruce J. Ayers	1st Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2039 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and 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, is hereby amended by
2 inserting, after 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 a separate fund to be
5 known as the Senior Citizens and Disabled Persons Abuse Prevention Fund. There shall be credited to said fund all
6 revenues which are generated under the provisions of section 4 of chapter 93A which are in excess of any such
7 revenues which were collected during each fiscal year. Amounts credited to said fund shall be available for
8 expenditure, subject to appropriation, to
9 (1) prepare and distribute educational materials to inform senior citizens, disabled persons and other citizens of the
10 commonwealth regarding consumer protection laws and consumer rights that are of particular interest to senior
11 citizens or disabled persons, and
12 (2) to underwrite educational seminars and other forms of education and projects designed to explain deceptive
13 investment or marketing practices which have historically targeted senior citizens and disabled persons.
- 14 SECTION 2. Section 1 of Chapter 93A of the General Laws, as appearing in the 2004 Official Edition, is hereby
15 amended by inserting the following paragraphs:—
16 (e) “Senior Citizen”, a person who is at least 65 years of age.
17 (f) “Persons with disabilities”, a person who has a physical or mental impairment which substantially limits one or
18 more fundamental life activities. For the purposes of this paragraph, “physical or mental impairment” shall include
19 such diseases or conditions as orthopedic, visual, speech and hearing impairment, cancer, heart disease, diabetes,
20 mental retardation, and emotional illness; “fundamental life activities” shall include activities such as caring for
21 one’s self, performing annual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- 22 SECTION 3. Section 4 of chapter 93A of the General Laws, as appearing in the 2004 Official Edition, is hereby
23 amended by inserting the following at the end of the first paragraph:—
24 “The court may also require such person to pay to the Commonwealth an additional civil penalty of not more than

25 \$2,500 for each such violation if the court finds that each violation was perpetrated against one or more senior
26 citizens or persons with disabilities.
27 In determining whether to impose the additional civil penalty pursuant to this section and the amount thereof, the
28 court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following
29 factors are present:
30 (1) Whether the defendant knew or should have known that his or her conduct was directed at one or more senior
31 citizens or persons with disabilities.
32 (2) Whether the defendant's conduct caused one or more senior citizens or persons with disabilities to suffer: loss or
33 encumbrance of a primary residence, principal employment, or source of income; substantial loss of property or
34 assets set aside or held for retirement or for personal or family care and maintenance; substantial loss of payments
35 received under a pension or retirement plan or a government benefits program; or assets essential to the health or
36 welfare of the senior citizens or persons with disabilities.
37 (3) Whether one or more senior citizens or persons with disabilities are substantially more vulnerable than other
38 members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding,
39 restricted mobility, or disability, and actually suffered substantial physical, emotional or economic damage resulting
40 from the defendant's conduct."

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