

HOUSE No. 536

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:

Bruce J. Ayers

DISTRICT/ADDRESS:

1st Norfolk

HOUSE No. 536

By Mr. Ayers of Quincy, a petition (accompanied by bill, House, No. 536) of Bruce J. Ayers relative to deceptive actions perpetrated against elderly and disabled persons. Elder Affairs.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
 HOUSE
 , NO. 3112 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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 a
- 5 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 persons and
- 11 other citizens of the commonwealth regarding consumer protection laws and consumer rights
- 12 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 designed to
- 14 explain deceptive investment or marketing practices which have historically targeted senior
- 15 citizens and disabled persons.
- 16 SECTION 2. Section 1 of Chapter 93A of the General Laws, as appearing in the 2004 Official

17 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 Official
27 Edition, is hereby amended by 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 the
32 amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to
33 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 directed at
35 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 more
43 vulnerable than other members of the public to the defendant’s conduct because of age, poor
44 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.”

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