

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2583

Session of
1994

INTRODUCED BY GORDNER, BLAUM, COY, SANTONI, ROONEY, STABACK,
TIGUE, MUNDY, COLAIZZO, OLASZ, TRELLO, PISTELLA, CURRY,
HENNESSEY, MANDERINO, BEBKO-JONES, KASUNIC, DeLUCA, CAWLEY,
DALEY, BAKER, VEON, MAITLAND, YEWIC, MELIO, HASAY, FAJT,
BELFANTI AND LEDERER, MARCH 9, 1994

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 23, 1994

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," further providing for payment of costs and
7 restitution and for civil penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of December 17, 1968
11 (P.L.1224, No.387), known as the Unfair Trade Practices and
12 Consumer Protection Law, reenacted and amended November 24, 1976
13 (P.L.1166, No.260), is amended by adding paragraphs to read:

14 Section 2. Definitions.--As used in this act[.]:

15 * * *

16 (2.1) "Person with a disability" means a person who has an <—
17 impairment of physical or mental function or emotional status
18 that substantially limits one or more major life activities such

~~as caring for one's self, performing manual tasks, walking,
seeing, hearing, speaking, breathing, learning or working.:~~

(I) HAS A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY
LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF SUCH
INDIVIDUAL;

(II) HAS A RECORD OF SUCH AN IMPAIRMENT; OR

(III) IS REGARDED AS HAVING SUCH AN IMPAIRMENT.

(2.2) "Senior citizen" means a person 60 years of age or
older.

* * *

Section 2. Section 4.1 of the act, repealed in part April
28, 1978 (P.L.202, No.53), is amended to read:

Section 4.1. Payment of Costs and Restitution.--(a)
Whenever any court issues a permanent injunction to restrain and
prevent violations of this act as authorized in section 4 above,
the court may in its discretion direct that the defendant or
defendants restore to any person in interest any moneys or
property, real or personal, which may have been acquired by
means of any violation of this act, under terms and conditions
to be established by the court.

(b) Restitution ordered under THIS section 8(e) shall be
given priority over imposition of civil penalties designated by
the court under section 8 IN CASES WHERE SECTION 8(C) IS
APPLICABLE.

Section 3. Section 8 of the act is amended by adding a
subsection to read:

Section 8. Civil Penalties.--* * *

(c) In addition to any other civil penalty under this act, a
person who engages in any conduct prohibited by this act and
whose conduct is perpetrated against one or more senior citizens

1 or persons with a disability shall forfeit and pay an additional
2 civil penalty not to exceed five thousand dollars (\$5,000) for
3 each violation, if one or more of the following factors are
4 present:

5 (1) the defendant knew or should have known that the
6 defendant's conduct was directed to one or more senior citizens
7 or persons with a disability;

8 (2) the defendant's conduct caused one or more senior
9 citizens or persons with a disability to suffer any of the
10 following:

11 (i) loss or encumbrance of a primary residence, principal
12 employment or source of income;

13 (ii) substantial loss of property set aside for retirement
14 or for personal or family care and maintenance;

15 (iii) substantial loss of payments received under a pension
16 or retirement plan or a government benefits program; or

17 (iv) assets essential to the health or welfare of the senior
18 citizen or person with a disability;

19 (3) one or more senior citizens or persons with a disability
20 are more vulnerable to the defendant's conduct than other
21 members of the public due to age, poor health or infirmity,
22 impaired understanding, restricted mobility or disability; or

23 (4) a senior citizen or person with a disability actually
24 suffered physical, emotional or economic damage resulting from
25 the defendant's conduct.

26 Section 4. This act shall take effect in 60 days.