

CHAPTER 138

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 09-054

BY SENATOR(S) Scheffel, Foster, Veiga;
 also REPRESENTATIVE(S) Kerr A., Ryden, Carroll T.

AN ACT

**CONCERNING AN INCREASE IN THE CIVIL PENALTIES RECOVERABLE BY THE STATE UNDER STATUTES
 RELATED TO FAIR TRADE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 6-1-112, Colorado Revised Statutes, is amended to read:

6-1-112. Civil penalties. (1) ~~Any person who violates or causes another to violate any provision of this article shall forfeit and pay to the general fund of this state a civil penalty of not more than two thousand dollars for each such violation. For purposes of this subsection (1), a violation of any provision shall constitute a separate violation with respect to each consumer or transaction involved; except that the maximum civil penalty shall not exceed one hundred thousand dollars for any related series of violations.~~ THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY MAY BRING A CIVIL ACTION ON BEHALF OF THE STATE TO SEEK THE IMPOSITION OF CIVIL PENALTIES AS FOLLOWS:

(a) ANY PERSON WHO VIOLATES OR CAUSES ANOTHER TO VIOLATE ANY PROVISION OF THIS ARTICLE SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THIS STATE A CIVIL PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS FOR EACH SUCH VIOLATION. FOR PURPOSES OF THIS PARAGRAPH (a), A VIOLATION OF ANY PROVISION SHALL CONSTITUTE A SEPARATE VIOLATION WITH RESPECT TO EACH CONSUMER OR TRANSACTION INVOLVED; EXCEPT THAT THE MAXIMUM CIVIL PENALTY SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS FOR ANY RELATED SERIES OF VIOLATIONS.

~~(2)~~ (b) Any person who violates or causes another to violate any court order or injunction issued pursuant to this article shall forfeit and pay to the general fund of this state a civil penalty of not more than ten thousand dollars for each such

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

violation. For the purposes of this section, the court issuing the order or injunction shall retain jurisdiction, and the cause shall be continued. Upon violation, the attorney general or a district attorney may petition the court for the recovery of the civil penalty. Such civil penalty shall be in addition to any other penalty or remedy available for the enforcement of the provisions of this article and any court order or injunction.

~~(3)~~(c) Any person who violates or causes another to violate any provision of this article, where such violation was committed against an elderly person, shall forfeit and pay to the general fund of the state a civil penalty of not more than ten thousand dollars for each such violation. For purposes of this ~~subsection (3)~~ PARAGRAPH (c), a violation of any provision of this article shall constitute a separate violation with respect to each elderly person involved.

SECTION 2. 6-4-112 (1), Colorado Revised Statutes, is amended to read:

6-4-112. Civil penalties. (1) The attorney general may bring a civil action on behalf of the state to seek the imposition of a civil penalty for any violation of this article. The court, upon finding a violation of this article, shall impose a civil penalty to be paid to the general fund of the state in an amount not to exceed ~~one hundred~~ TWO HUNDRED FIFTY thousand dollars for each such violation; except that the election by the attorney general to seek a civil penalty shall preclude the attorney general from filing criminal charges against the person assessed a civil penalty based upon the same conduct or from pursuing an action against such person for damages pursuant to section 6-4-111 (2) and (3).

SECTION 3. 6-1-720 (4), Colorado Revised Statutes, is amended to read:

6-1-720. Deceptive trade practice - on-line event ticket sales. (4) Every ticket acquired in violation of this section shall constitute a separate violation for purposes of assessing a civil penalty under section 6-1-112 ~~(1) and (2)~~ (1) (a) AND (1) (b).

SECTION 4. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to offenses committed under the "Colorado Consumer Protection Act" or the "Colorado Antitrust Act of 1992" on or after the applicable effective date of this act.

Approved: April 20, 2009