

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 1730 (Davies)  
Version: January 31, 2022  
Hearing Date: May 31, 2022  
Fiscal: No  
Urgency: No  
AM

**SUBJECT**

Penal damages: veterans

**DIGEST**

This bill authorizes a trier of fact in a civil action brought to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a veteran to consider specified factors in determining the amount of a discretionary fine, penalty, or remedy to be imposed. The bill authorizes the trier of fact, when the trier of fact makes an affirmative finding in regards to those specified factors, to impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by statute or up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding.

**EXECUTIVE SUMMARY**

Existing law authorizes a trier of fact to treble the amount of a fine, civil penalty, or other remedy in an action brought to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a senior citizen or disabled person if certain affirmative findings are made. This bill would expand that authority to also apply to an action brought to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a veteran.

The bill is sponsored by the Children's Advocacy Institute, the Consumer Protection Policy Center, and the Veterans Legal Clinic, all of which are at the University of San Diego School of Law. The bill is supported by various veterans' organizations and consumer rights organizations. There is no known opposition. If the bill passes out of this Committee, it will next be heard before the Senate Military and Veterans Affairs Committee.

**PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Requires the trier of fact, when an action is brought on behalf of or for the benefit of senior citizens or disabled persons to redress unfair or deceptive acts or practices or unfair methods of competition, to consider the factors in (a) through (c) below in addition to other appropriate factors in determining the amount of a fine, civil penalty or other penalty, or other remedy to impose whenever the trier of fact is authorized by statute to impose a fine, penalty, or any other remedy the purpose or effect of which is to punish or deter and the amount of the fine, penalty, or remedy is subject to the trier of fact's discretion. (Civ. Code § 3345.)
  - a) Whether the defendant knew or should have known that their conduct was directed to one or more senior citizens or disabled persons. (*Id.* (b)(1).)
  - b) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior or disabled person. (*Id.* (b)(2).)
  - c) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct. (*Id.* (b)(3).)
- 2) Authorizes the trier of fact, when the trier of fact makes an affirmative finding in regard to the specified factors in 1)a) through c) above, to impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding. (*Id.* (b).)
- 3) Defines "senior citizens" as a person who is 65 years of age or older. (*Id.* (a).)
- 4) Defines "disabled person" as a person who has a physical or mental impairment that substantially limits one or more major life activities. (*Id.* (a).)
- 5) Provides that restitution is not a remedy eligible for potential trebling under 2). (*Clark v. Superior Court* (2010) 50 Cal. 4th 605, 614.)

This bill would additionally apply the above provisions to a civil action to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a veteran, and defines “veteran” as any person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces and who has been discharged or released under conditions other than dishonorable.

### COMMENTS

#### 1. Stated need for the bill

The author writes:

The bravest and most courageous members of our community are the women and men of the Armed Forces who dedicate their lives to protecting our country. Unfortunately, there are entities and organizations who take advantage of these patriots. Veterans and their families are prime targets for scams and cons by unscrupulous businesses who prey on these individuals for their rightly-earned benefits. It’s time California cracks down on these entities and ensure we have the strongest protections and regulations available to protect against fraud and deceit.

#### 2. Background

##### *a. Veterans are targeted by scammers due to their status as veterans*

According to a recent study by the AARP, which was provided to the Committee by the author and sponsors of the bill, “veterans, military, and their families continue to be significantly targeted more by con-artists and are losing money more than non-military/non-veterans when approached by similar scams or schemes.<sup>1</sup>” The study found that overall members of the military and veterans report receiving more scam attempts than civilians and that they report losing money at higher rates than civilians.<sup>2</sup> The AARP report notes that scammers use specific military jargon or veteran-related information, such as the fact that veterans get special benefits from the government, to create effective scams that target veterans in ways that prey on their status as a veteran.<sup>3</sup> The FTC in 2020 launched a website where people can report fraud and other illegal business practices. In the FTC’s 2020 report on data it received from the website, it

---

<sup>1</sup> Jennifer Sauer, *Scambush: Military Veterans Battle Surprise Attacks from Scams & Fraud*, AARP (2021) at p. 4, available at

[https://www.aarp.org/content/dam/aarp/research/surveys\\_statistics/econ/2021/fraud-scams-military-veterans-report.doi.10.26419-2Fres.00502.001.pdf](https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2021/fraud-scams-military-veterans-report.doi.10.26419-2Fres.00502.001.pdf) (as of May 16, 2022).

<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.* at 8.

stated that 114,808 military retirees and/or veterans made a report, that 41,579 reports were for fraud, and that the total fraud loss reported was \$66 million.<sup>4</sup>

In addition, California's Attorneys General have investigated fraud and warned about scams targeting veterans. In 2012, Help Hospitalized Veterans, a California charity, paid a \$2.5 million fine after being sued by then-Attorney General, now Vice-President, Kamala Harris for improperly diverting funds meant to help wounded veterans.<sup>5</sup> Former Attorney General Xavier Becerra and current Attorney General Rob Bonta have both issued consumer alerts warning veterans, service members, and their families of scams targeting them.<sup>6</sup> Some of the scams identified in the alerts include:

- Identity theft, frequently perpetrated by individuals pretending to be from the U.S. Department of Defense or Department of Veterans Affairs.
  - Home loan scams where individuals falsely claim to be affiliated with the government or the Department of Veterans Affairs seeking to persuade veterans with mortgages to obtain loan modifications or mortgage refinancing.
  - Benefits fraud, including improperly inducing veterans to transfer their assets to a third party, sometimes by pretending to assist veterans in securing benefits.
  - Affinity fraud, through employing salespeople with military backgrounds, the misuse of service organization's seals, and other means of taking advantage of veterans' trust in the military.<sup>7</sup>
- b. *Bill addresses this issue by expanding existing provisions of law related to the protection of seniors and disabled persons to also apply to veterans*

Existing law authorizes a trier of fact to treble the amount of a fine, civil penalty, or other remedy in an action brought to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a senior citizen or disabled person if certain affirmative findings are made. (Civ. Code § 3345.) Existing case law provides that restitution is not a remedy eligible for potential trebling under these provisions. (*Clark v. Superior Court* (2010) 50 Cal. 4th 605, 614.) The trier of fact is to

---

<sup>4</sup> *Consumer Sentinel Network: Data Book 2020*, Fed. Trade Comm. (Feb. 2021) at p. 17, available at [https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn\\_annual\\_data\\_book\\_2020.pdf](https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2020/csn_annual_data_book_2020.pdf) (as of May 17, 2022).

<sup>5</sup> David Fitzpatrick and Drew Griffin, *California charity Help Hospitalized Veterans pays \$2.5 million fine*, CNN (Sept. 6, 2013), available at <https://www.cnn.com/2013/09/06/us/california-charity-fine/index.html> (as of May 18, 2022).

<sup>6</sup> Cal. Dept. of Justice, *Attorney General Becerra Warns Consumers to Beware of Financial Pitfalls and Scams Targeting Veterans and Servicemembers* (Nov. 11, 2020), available at <https://oag.ca.gov/news/press-releases/attorney-general-becerra-warns-consumers-beware-financial-pitfalls-and-scams>; Cal. Dept. of Justice, *On Veterans Day, Attorney General Bonta Warns Against Scams Targeting Veterans and Their Families* (Nov. 11, 2021), available at <https://oag.ca.gov/news/press-releases/veterans-day-attorney-general-bonta-warns-against-scams-targeting-veterans-and> (as of May 18, 2022).

<sup>7</sup> *Id.*

consider certain factors, in addition to any other appropriate factors, when making the affirmative findings. (Civ. Code § 3345(b).) These factors include:

- a) Whether the defendant knew or should have known that their conduct was directed to one or more senior citizens or disabled persons. (*Id.* (b)(1).)
- b) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior or disabled person. (*Id.* (b)(2).)
- c) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct. (*Id.* (b)(3).)

The bill would additionally apply the existing provisions of Civil Code Section 3345 to veterans. The bill defines veterans by cross-referencing the definition of veterans in Section 18540.4 of the Government Code, which is any person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces and who has been discharged or released under conditions other than dishonorable. The intent of the bill is to provide both enhanced punishment to those who seek to target veterans and deterrence by potentially trebling damages that could be brought against perpetrators who fraudulently target veterans.

### 3. Statements in support

The Children's Advocacy Institute, the Consumer Protection Policy Center, and the Veterans Legal Clinic at the University of San Diego School of Law, sponsors of the bill, write:

Notwithstanding their heroism and self-sacrifice, veterans are ambitiously targeted by unethical companies. The numbers are astonishing.

In just one year (2020), veterans reported over 40,000 complaints to the Federal Trade Commission reporting over \$66 million in losses. That's just one year. That's just scams that were somehow reported to a federal government agency. That includes a year when economic activity was reduced because of COVID.  
[...]

Given the evidence of veterans being targets of scams and their sacrifice, unethical businesses should be as discouraged to target veterans as seniors and the disabled, and suffer the same consequences if they are not discouraged. (footnotes omitted)

In support of the bill, the Consumer Federation of California writes:

[...] AB 1730 seeks to expand eligibility for treble damages to veterans living in California. Veterans have long been the targets of scam artists, whether working with companies, charities or individually. In 2020 alone, veterans reported over \$66 million in losses to the Federal Trade Commission, and this number significantly undercounts the losses, as it does not include fraud unreported due to fear, shame or bureaucratic structures. These scams often come in the form of fake military charities or schemes aimed at getting veterans to sign over their VA pensions. Millions of veterans rely on their military pensions to survive and are extremely vulnerable to the loss of that income stream. Many veterans already deal with the struggles of returning to civilian life, mourning fallen soldiers, post-traumatic stress and many other challenges, which is why veterans are specifically targeted in the first place. Adding to all of that dealing with the stress of losing their savings to a scam, and not being properly compensated after, should not be an additional burden and should be strongly discouraged by law, as is the case in AB 1730. [...]

### **SUPPORT**

Children's Advocacy Institute, University of San Diego School of Law (sponsor)  
Consumer Protection Policy Center, University of San Diego School of Law (sponsor)  
Veterans Legal Clinic, University of San Diego School of Law (sponsor)  
Consumer Attorneys of California  
Consumer Federation of California  
Housing and Economic Rights Advocates  
Iraq and Afghanistan Veterans of America  
Public Counsel  
Swords 2 Ploughshares

### **OPPOSITION**

None known

**RELATED LEGISLATION**

Pending Legislation: SB 1311 (Eggman, 2022) would strengthen California's existing military consumer protection laws by enhancing existing legal and financial protections for service members and their families and veterans by, among other things, making a person who violates a statutory cause of action for unfair competition if the violation is perpetrated against one or more service members or veterans, liable for an additional civil penalty not to exceed \$2,500 for each violation, as provided. SB 1311 is currently pending referral in the Assembly.

Prior Legislation: None known.

**PRIOR VOTES:**

Assembly Floor (Ayes 72, Noes 0)

Assembly Judiciary Committee (Ayes 10, Noes 0)

\*\*\*\*\*