

PROPOSED AMENDMENT

HB 1273 # 2

DIGEST

Deceptive consumer sales. Amends the definition of "consumer transaction" for purposes of the deceptive consumer sales act to include the provision of a product or service to a state agency or a local agency in Indiana. Amends the definition of "supplier" for purposes of the deceptive consumer sales act to include an entity that provides a product or service to a state agency or a local agency in Indiana. Provides that an action that arises from a consumer transaction involving the provision of a product or service by a supplier to a state agency may be brought and enforced only by the attorney general. Provides that an action that arises from a consumer transaction involving the provision of a product or service by a supplier to a local agency may be brought and enforced only by an attorney acting on behalf of the local agency, unless the local unit of government served by the local agency requests the attorney general to bring and enforce an action on behalf of the local unit. Provides that in an action that arises from a consumer transaction involving the provision of a product or service by a supplier to a state agency or a local agency, a court may take certain actions. Adds a violation of a provision of this bill to the list of deceptive acts.

- 1 Page 5, after line 41, begin a new paragraph and insert:
2 "SECTION 2. IC 24-5-0.5-2, AS AMENDED BY P.L.206-2025,
3 SECTION 5, AND AS AMENDED BY P.L.227-2025, SECTION 42,
4 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
5 OF THE 2026 GENERAL ASSEMBLY, IS CORRECTED AND
6 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:
7 Sec. 2. (a) As used in this chapter:
8 (1) "Consumer transaction" means a sale, lease, assignment,
9 award by chance, or other disposition of an item of personal
10 property, real property, a service, or an intangible, except
11 securities and policies or contracts of insurance issued by
12 corporations authorized to transact an insurance business under
13 the laws of the state of Indiana, with or without an extension of
14 credit, to a person for purposes that are primarily personal,
15 familial, charitable, agricultural, or household, or a solicitation to
16 supply any of these things. However, the term includes the
17 following:
18 (A) A transfer of structured settlement payment rights under
19 IC 34-50-2.

- 1 (B) An unsolicited advertisement sent to a person by telephone
 2 facsimile machine offering a sale, lease, assignment, award by
 3 chance, or other disposition of an item of personal property,
 4 real property, a service, or an intangible.
- 5 (C) The collection of or attempt to collect a debt by a debt
 6 collector.
- 7 (D) *The provision of a product or service to a:*
 8 (i) *state law enforcement agency; ~~or~~*
 9 (ii) *local law enforcement agency;*
 10 **(iii) state agency; or**
 11 **(iv) local agency;**
 12 *in Indiana.*
- 13 ~~(D)~~ (E) *Conduct that arises from, occurs in connection with,*
 14 *or otherwise involves a transaction for emergency towing (as*
 15 *defined in IC 24-14-2-5) of a personal or commercial vehicle.*
- 16 (2) "Person" means an individual, corporation, the state of Indiana
 17 or its subdivisions or agencies, business trust, estate, trust,
 18 partnership, association, nonprofit corporation or organization, or
 19 cooperative or any other legal entity.
- 20 (3) "Supplier" means the following:
 21 (A) A seller, lessor, assignor, or other person who regularly
 22 engages in or solicits consumer transactions, including
 23 soliciting a consumer transaction by using a telephone
 24 facsimile machine to transmit an unsolicited advertisement.
 25 The term includes a manufacturer, *a* wholesaler, ~~or~~ *a* retailer,
 26 *or, in a consumer transaction described in subdivision (1)(D),*
 27 *an entity that provides a product or service to a state law*
 28 *enforcement agency, ~~or~~ local law enforcement agency, **state***
 29 **agency, or local agency in Indiana,** whether or not the person
 30 deals directly with the consumer.
- 31 (B) A debt collector.
- 32 (4) "Subject of a consumer transaction" means the personal
 33 property, real property, services, or intangibles offered or
 34 furnished in a consumer transaction.
- 35 (5) "Cure" as applied to a deceptive act, means either:
 36 (A) to offer in writing to adjust or modify the consumer
 37 transaction to which the act relates to conform to the
 38 reasonable expectations of the consumer generated by such
 39 deceptive act and to perform such offer if accepted by the
 40 consumer; or

- 1 (B) to offer in writing to rescind such consumer transaction
 2 and to perform such offer if accepted by the consumer.
 3 The term includes an offer in writing of one (1) or more items of
 4 value, including monetary compensation, that the supplier
 5 delivers to a consumer or a representative of the consumer if
 6 accepted by the consumer.
- 7 (6) "Offer to cure" as applied to a deceptive act is a cure that:
 8 (A) is reasonably calculated to remedy a loss claimed by the
 9 consumer; and
 10 (B) includes a minimum additional amount that is the greater
 11 of:
 12 (i) ten percent (10%) of the value of the remedy under
 13 clause (A), but not more than four thousand dollars
 14 (\$4,000); or
 15 (ii) five hundred dollars (\$500);
 16 as compensation for attorney's fees, expenses, and other costs
 17 that a consumer may incur in relation to the deceptive act.
- 18 (7) "Uncured deceptive act" means: ~~a deceptive act~~.
 19 (A) **a deceptive act** with respect to which a consumer who has
 20 been damaged by such act has given notice to the supplier
 21 under section 5(a) of this chapter; and
 22 (B) either:
 23 (i) no offer to cure has been made to such consumer within
 24 thirty (30) days after such notice; or
 25 (ii) the act has not been cured as to such consumer within a
 26 reasonable time after the consumer's acceptance of the offer
 27 to cure.
- 28 (8) "Incurable deceptive act" means a deceptive act done by a
 29 supplier as part of a scheme, artifice, or device with intent to
 30 defraud or mislead. The term includes a failure of a transferee of
 31 structured settlement payment rights to timely provide a true and
 32 complete disclosure statement to a payee as provided under
 33 IC 34-50-2 in connection with a direct or indirect transfer of
 34 structured settlement payment rights.
- 35 **(9) "Local agency" means an administration, an agency, an**
 36 **authority, a board, a bureau, a commission, a committee, a**
 37 **council, a department, a division, an institution, an office, an**
 38 **officer, a service, or other similar body of a political**
 39 **subdivision created or established under law.**
- 40 **(10) "Political subdivision" means a county, township, city,**

town, municipal corporation (as defined in IC 36-1-2-10), or special taxing district. However, the term does not include a school corporation or charter school.

~~(9)~~ (11) "Senior consumer" means an individual who is at least sixty (60) years of age.

(12) "State agency" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, a service, or other similar body of state government created or established under law. The term includes a body corporate and politic of the state created by statute. The term does not include a state educational institution (as defined in IC 21-7-13-32).

~~(10)~~ (13) "Telephone facsimile machine" means equipment that has the capacity to transcribe text or images, or both, from:

(A) paper into an electronic signal and to transmit that signal over a regular telephone line; or

(B) an electronic signal received over a regular telephone line onto paper.

~~(11)~~ (14) "Unsolicited advertisement" means material advertising the commercial availability or quality of:

(A) property;

(B) goods; or

(C) services;

that is transmitted to a person without the person's prior express invitation or permission, in writing or otherwise.

~~(12)~~ (15) "Debt" has the meaning set forth in 15 U.S.C. 1692(a)(5).

~~(13)~~ (16) "Debt collector" has the meaning set forth in 15 U.S.C. 1692(a)(6). The term does not include a person admitted to the practice of law in Indiana if the person is acting within the course and scope of the person's practice as an attorney. The term includes a debt buyer (as defined in IC 24-5-15.5).

(b) As used in section 3(b)(15) and 3(b)(16) of this chapter:

(1) "Directory assistance" means the disclosure of telephone number information in connection with an identified telephone service subscriber by means of a live operator or automated service.

(2) "Local telephone directory" refers to a telephone classified advertising directory or the business section of a telephone

1 directory that is distributed by a telephone company or directory
 2 publisher to subscribers located in the local exchanges contained
 3 in the directory. The term includes a directory that includes
 4 listings of more than one (1) telephone company.

5 (3) "Local telephone number" refers to a telephone number that
 6 has the three (3) number prefix used by the provider of telephone
 7 service for telephones physically located within the area covered
 8 by the local telephone directory in which the number is listed. The
 9 term does not include long distance numbers or 800-, 888-, or
 10 900- exchange numbers listed in a local telephone directory.

11 SECTION 3. IC 24-5-0.5-3, AS AMENDED BY P.L.104-2024,
 12 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2026]: Sec. 3. (a) A supplier may not commit an unfair,
 14 abusive, or deceptive act, omission, or practice in connection with a
 15 consumer transaction. Such an act, omission, or practice by a supplier
 16 is a violation of this chapter whether it occurs before, during, or after
 17 the transaction. An act, omission, or practice prohibited by this section
 18 includes both implicit and explicit misrepresentations.

19 (b) Without limiting the scope of subsection (a), the following acts,
 20 and the following representations as to the subject matter of a
 21 consumer transaction, made orally, in writing, or by electronic
 22 communication, by a supplier, are deceptive acts:

23 (1) That such subject of a consumer transaction has sponsorship,
 24 approval, performance, characteristics, accessories, uses, or
 25 benefits it does not have which the supplier knows or should
 26 reasonably know it does not have.

27 (2) That such subject of a consumer transaction is of a particular
 28 standard, quality, grade, style, or model, if it is not and if the
 29 supplier knows or should reasonably know that it is not.

30 (3) That such subject of a consumer transaction is new or unused,
 31 if it is not and if the supplier knows or should reasonably know
 32 that it is not.

33 (4) That such subject of a consumer transaction will be supplied
 34 to the public in greater quantity than the supplier intends or
 35 reasonably expects.

36 (5) That replacement or repair constituting the subject of a
 37 consumer transaction is needed, if it is not and if the supplier
 38 knows or should reasonably know that it is not.

39 (6) That a specific price advantage exists as to such subject of a
 40 consumer transaction, if it does not and if the supplier knows or

- 1 should reasonably know that it does not.
- 2 (7) That the supplier has a sponsorship, approval, or affiliation in
3 such consumer transaction the supplier does not have, and which
4 the supplier knows or should reasonably know that the supplier
5 does not have.
- 6 (8) That such consumer transaction involves or does not involve
7 a warranty, a disclaimer of warranties, or other rights, remedies,
8 or obligations, if the representation is false and if the supplier
9 knows or should reasonably know that the representation is false.
- 10 (9) That the consumer will receive a rebate, discount, or other
11 benefit as an inducement for entering into a sale or lease in return
12 for giving the supplier the names of prospective consumers or
13 otherwise helping the supplier to enter into other consumer
14 transactions, if earning the benefit, rebate, or discount is
15 contingent upon the occurrence of an event subsequent to the time
16 the consumer agrees to the purchase or lease.
- 17 (10) That the supplier is able to deliver or complete the subject of
18 the consumer transaction within a stated period of time, when the
19 supplier knows or should reasonably know the supplier could not.
20 If no time period has been stated by the supplier, there is a
21 presumption that the supplier has represented that the supplier
22 will deliver or complete the subject of the consumer transaction
23 within a reasonable time, according to the course of dealing or the
24 usage of the trade.
- 25 (11) That the consumer will be able to purchase the subject of the
26 consumer transaction as advertised by the supplier, if the supplier
27 does not intend to sell it.
- 28 (12) That the replacement or repair constituting the subject of a
29 consumer transaction can be made by the supplier for the estimate
30 the supplier gives a customer for the replacement or repair, if the
31 specified work is completed and:
- 32 (A) the cost exceeds the estimate by an amount equal to or
33 greater than ten percent (10%) of the estimate;
- 34 (B) the supplier did not obtain written permission from the
35 customer to authorize the supplier to complete the work even
36 if the cost would exceed the amounts specified in clause (A);
- 37 (C) the total cost for services and parts for a single transaction
38 is more than seven hundred fifty dollars (\$750); and
- 39 (D) the supplier knew or reasonably should have known that
40 the cost would exceed the estimate in the amounts specified in

- 1 clause (A).
- 2 (13) That the replacement or repair constituting the subject of a
- 3 consumer transaction is needed, and that the supplier disposes of
- 4 the part repaired or replaced earlier than seventy-two (72) hours
- 5 after both:
- 6 (A) the customer has been notified that the work has been
- 7 completed; and
- 8 (B) the part repaired or replaced has been made available for
- 9 examination upon the request of the customer.
- 10 (14) Engaging in the replacement or repair of the subject of a
- 11 consumer transaction if the consumer has not authorized the
- 12 replacement or repair, and if the supplier knows or should
- 13 reasonably know that it is not authorized.
- 14 (15) The act of misrepresenting the geographic location of the
- 15 supplier by listing an alternate business name or an assumed
- 16 business name (as described in IC 23-0.5-3-4) in a local telephone
- 17 directory if:
- 18 (A) the name misrepresents the supplier's geographic location;
- 19 (B) the listing fails to identify the locality and state of the
- 20 supplier's business;
- 21 (C) calls to the local telephone number are routinely forwarded
- 22 or otherwise transferred to a supplier's business location that
- 23 is outside the calling area covered by the local telephone
- 24 directory; and
- 25 (D) the supplier's business location is located in a county that
- 26 is not contiguous to a county in the calling area covered by the
- 27 local telephone directory.
- 28 (16) The act of listing an alternate business name or assumed
- 29 business name (as described in IC 23-0.5-3-4) in a directory
- 30 assistance data base if:
- 31 (A) the name misrepresents the supplier's geographic location;
- 32 (B) calls to the local telephone number are routinely forwarded
- 33 or otherwise transferred to a supplier's business location that
- 34 is outside the local calling area; and
- 35 (C) the supplier's business location is located in a county that
- 36 is not contiguous to a county in the local calling area.
- 37 (17) The violation by a supplier of IC 24-3-4 concerning
- 38 cigarettes for import or export.
- 39 (18) The act of a supplier in knowingly selling or reselling a
- 40 product to a consumer if the product has been recalled, whether

1 by the order of a court or a regulatory body, or voluntarily by the
2 manufacturer, distributor, or retailer, unless the product has been
3 repaired or modified to correct the defect that was the subject of
4 the recall.

5 (19) The violation by a supplier of 47 U.S.C. 227, including any
6 rules or regulations issued under 47 U.S.C. 227.

7 (20) The violation by a supplier of the federal Fair Debt
8 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
9 rules or regulations issued under the federal Fair Debt Collection
10 Practices Act (15 U.S.C. 1692 et seq.).

11 (21) A violation of IC 24-5-7 (concerning health spa services), as
12 set forth in IC 24-5-7-17.

13 (22) A violation of IC 24-5-8 (concerning business opportunity
14 transactions), as set forth in IC 24-5-8-20.

15 (23) A violation of IC 24-5-10 (concerning home consumer
16 transactions), as set forth in IC 24-5-10-18.

17 (24) A violation of IC 24-5-11 (concerning real property
18 improvement contracts), as set forth in IC 24-5-11-14.

19 (25) A violation of IC 24-5-12 (concerning telephone
20 solicitations), as set forth in IC 24-5-12-23.

21 (26) A violation of IC 24-5-13.5 (concerning buyback motor
22 vehicles), as set forth in IC 24-5-13.5-14.

23 (27) A violation of IC 24-5-14 (concerning automatic
24 dialing-announcing devices), as set forth in IC 24-5-14-13.

25 (28) A violation of IC 24-5-15 (concerning credit services
26 organizations), as set forth in IC 24-5-15-11.

27 (29) A violation of IC 24-5-16 (concerning unlawful motor
28 vehicle subleasing), as set forth in IC 24-5-16-18.

29 (30) A violation of IC 24-5-17 (concerning environmental
30 marketing claims), as set forth in IC 24-5-17-14.

31 (31) A violation of IC 24-5-19 (concerning deceptive commercial
32 solicitation), as set forth in IC 24-5-19-11.

33 (32) A violation of IC 24-5-21 (concerning prescription drug
34 discount cards), as set forth in IC 24-5-21-7.

35 (33) A violation of IC 24-5-23.5-7 (concerning real estate
36 appraisals), as set forth in IC 24-5-23.5-9.

37 (34) A violation of IC 24-5-26 (concerning identity theft), as set
38 forth in IC 24-5-26-3.

39 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
40 as set forth in IC 24-5.5-6-1.

- 1 (36) A violation of IC 24-8 (concerning promotional gifts and
2 contests), as set forth in IC 24-8-6-3.
- 3 (37) A violation of IC 21-18.5-6 (concerning representations
4 made by a postsecondary credit bearing proprietary educational
5 institution), as set forth in IC 21-18.5-6-22.5.
- 6 (38) A violation of IC 24-5-15.5 (concerning collection actions of
7 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 8 (39) A violation of IC 24-14 (concerning towing services), as set
9 forth in IC 24-14-10-1.
- 10 (40) A violation of IC 24-5-14.5 (concerning misleading or
11 inaccurate caller identification information), as set forth in
12 IC 24-5-14.5-12.
- 13 (41) A violation of IC 24-5-27 (concerning intrastate inmate
14 calling services), as set forth in IC 24-5-27-27.
- 15 (42) A violation of IC 15-21 (concerning sales of dogs by retail
16 pet stores), as set forth in IC 15-21-7-4.
- 17 (43) A violation of IC 24-4-23 (concerning the security of
18 information collected and transmitted by an adult oriented website
19 operator), as set forth in IC 24-4-23-14.
- 20 **(44) A violation of IC 24-4-27.5 (concerning proxy advisors),**
21 **as set forth in IC 24-4-27.5-12.**
- 22 (c) Any representations on or within a product or its packaging or
23 in advertising or promotional materials which would constitute a
24 deceptive act shall be the deceptive act both of the supplier who places
25 such representation thereon or therein, or who authored such materials,
26 and such other suppliers who shall state orally or in writing that such
27 representation is true if such other supplier shall know or have reason
28 to know that such representation was false.
- 29 (d) If a supplier shows by a preponderance of the evidence that an
30 act resulted from a bona fide error notwithstanding the maintenance of
31 procedures reasonably adopted to avoid the error, such act shall not be
32 deceptive within the meaning of this chapter.
- 33 (e) It shall be a defense to any action brought under this chapter that
34 the representation constituting an alleged deceptive act was one made
35 in good faith by the supplier without knowledge of its falsity and in
36 reliance upon the oral or written representations of the manufacturer,
37 the person from whom the supplier acquired the product, any testing
38 organization, or any other person provided that the source thereof is
39 disclosed to the consumer.
- 40 (f) For purposes of subsection (b)(12), a supplier that provides

1 estimates before performing repair or replacement work for a customer
 2 shall give the customer a written estimate itemizing as closely as
 3 possible the price for labor and parts necessary for the specific job
 4 before commencing the work.

5 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
 6 company or other provider of a telephone directory or directory
 7 assistance service or its officer or agent is immune from liability for
 8 publishing the listing of an alternate business name or assumed
 9 business name of a supplier in its directory or directory assistance data
 10 base unless the telephone company or other provider of a telephone
 11 directory or directory assistance service is the same person as the
 12 supplier who has committed the deceptive act.

13 (h) For purposes of subsection (b)(18), it is an affirmative defense
 14 to any action brought under this chapter that the product has been
 15 altered by a person other than the defendant to render the product
 16 completely incapable of serving its original purpose.

17 SECTION 4. IC 24-5-0.5-4, AS AMENDED BY P.L.186-2025,
 18 SECTION 133, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) A person relying upon an
 20 uncured or incurable deceptive act may bring an action for the damages
 21 actually suffered as a consumer as a result of the deceptive act or five
 22 hundred dollars (\$500), whichever is greater. The court may increase
 23 damages for a willful deceptive act in an amount that does not exceed
 24 the greater of:

25 (1) three (3) times the actual damages of the consumer suffering
 26 the loss; or

27 (2) one thousand dollars (\$1,000).

28 Except as provided in subsection (k), the court may award reasonable
 29 attorney's fees to the party that prevails in an action under this
 30 subsection. This subsection does not apply to a consumer transaction
 31 in real property, including a claim or action involving a construction
 32 defect (as defined in IC 32-27-3-1(5)) brought against a construction
 33 professional (as defined in IC 32-27-3-1(4)), except for purchases of
 34 time shares and camping club memberships. This subsection does not
 35 apply with respect to a deceptive act described in section 3(b)(20) of
 36 this chapter. This subsection also does not apply to a violation of
 37 IC 24-4.7, IC 24-5-12, IC 24-5-14, or IC 24-5-14.5. Actual damages
 38 awarded to a person under this section have priority over any civil
 39 penalty imposed under this chapter.

40 (b) Any person who is entitled to bring an action under subsection

(a) on the person's own behalf against a supplier for damages for a deceptive act may bring a class action against such supplier on behalf of any class of persons of which that person is a member and which has been damaged by such deceptive act, subject to and under the Indiana Rules of Trial Procedure governing class actions, except as herein expressly provided. Except as provided in subsection (k), the court may award reasonable attorney's fees to the party that prevails in a class action under this subsection, provided that such fee shall be determined by the amount of time reasonably expended by the attorney and not by the amount of the judgment, although the contingency of the fee may be considered. Except in the case of an extension of time granted by the attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10, any money or other property recovered in a class action under this subsection which cannot, with due diligence, be restored to consumers within one (1) year after the judgment becomes final shall be returned to the party depositing the same. This subsection does not apply to a consumer transaction in real property, except for purchases of time shares and camping club memberships. This subsection does not apply with respect to a deceptive act described in section 3(b)(20) of this chapter. Actual damages awarded to a class have priority over any civil penalty imposed under this chapter.

(c) The attorney general may bring an action to enjoin an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction, including a deceptive act described in section 3(b)(20) of this chapter, notwithstanding subsections (a) and (b). However, the attorney general may seek to enjoin patterns of incurable deceptive acts with respect to consumer transactions in real property. In addition, the court may:

- (1) issue an injunction;
- (2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers;
- (3) for a knowing violation against a senior consumer, increase the amount of restitution ordered under subdivision (2) in any amount up to three (3) times the amount of damages incurred or value of property or assets lost;
- (4) order the supplier to pay to the state the reasonable costs of the attorney general's investigation and prosecution, expert fees, and court fees related to the action;
- (5) provide for the appointment of a receiver; and

(6) order the department of state revenue to suspend the supplier's registered retail merchant certificate, subject to the requirements and prohibitions contained in IC 6-2.5-8-7(a)(5), if the court finds that a violation of this chapter involved the sale or solicited sale of a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (repealed)) (before July 1, 2019), a controlled substance analog (as defined in IC 35-48-1.1-8), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).

(d) In an action under subsection (a), (b), (c), or (n) the court may void or limit the application of contracts or clauses resulting from deceptive acts and order restitution to be paid to aggrieved consumers.

(e) In any action under subsection (a) or (b), upon the filing of the complaint or on the appearance of any defendant, claimant, or any other party, or at any later time, the trial court, the supreme court, or the court of appeals may require the plaintiff, defendant, claimant, or any other party or parties to give security, or additional security, in such sum as the court shall direct to pay all costs, expenses, and disbursements that shall be awarded against that party or which that party may be directed to pay by any interlocutory order by the final judgment or on appeal.

(f) Any person who violates the terms of an injunction issued under subsection (c) or (n) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars (\$15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) or (n) has been violated, the court shall award reasonable costs to the state.

(g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, other than section 3(b)(19), 3(b)(20), or 3(b)(40) of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five thousand dollars (\$5,000) per violation.

(h) If a court finds that a person has violated section 3(b)(19) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty as follows:

(1) For a knowing or intentional violation, one thousand five hundred dollars (\$1,500).

(2) For a violation other than a knowing or intentional violation,
five hundred dollars (\$500).

A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of section 3(b)(19) of this chapter.

(i) A senior consumer relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(j) An offer to cure is:

(1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and

(2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (k).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure that the supplier made an offer to cure.

(k) A supplier may not be held liable for the attorney's fees and court costs of the consumer that are incurred following the timely delivery of an offer to cure as described in subsection (j) unless the actual damages awarded, not including attorney's fees and costs, exceed the value of the offer to cure.

(l) If a court finds that a person has knowingly violated section 3(b)(20) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty not exceeding one thousand dollars (\$1,000) per consumer. In determining the amount of the civil penalty in any action by the attorney general under this subsection, the court shall consider, among other relevant factors, the frequency and persistence of noncompliance by the debt collector, the nature of the noncompliance, and the extent to which the noncompliance was intentional. A person may not be held liable in any action by the attorney general for a violation of section 3(b)(20) of this chapter if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid the error. A person may not be

held liable in any action for a violation of this chapter for contacting a person other than the debtor, if the contact is made in compliance with the Fair Debt Collection Practices Act.

(m) If a court finds that a person has knowingly or intentionally violated section 3(b)(40) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty in accordance with IC 24-5-14.5-12(b). As specified in IC 24-5-14.5-12(b), a civil penalty recovered under IC 24-5-14.5-12(b) shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of IC 24-5-14.5. In addition to the recovery of a civil penalty in accordance with IC 24-5-14.5-12(b), the attorney general may also recover reasonable attorney fees and court costs from the person on behalf of the state. Those funds shall also be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6.

(n) An action that arises from, or otherwise involves, an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction described in section 2(a)(1)(D)(i) **or 2(a)(1)(D)(iii)** of this chapter may be brought and enforced only by the attorney general under this subsection. An action that arises from, or otherwise involves, an unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction described in section 2(a)(1)(D)(ii) **or 2(a)(1)(D)(iv)** of this chapter may be brought and enforced only by an attorney acting on behalf of the local law enforcement agency **or local agency** involved in the transaction, unless the local unit of government served by the local law enforcement agency **or local agency** requests the attorney general to bring and enforce an action under this subsection on behalf of the local unit. In addition, the court may:

- (1) issue an injunction;
- (2) order the supplier to make payment of the money unlawfully received from the aggrieved consumers to be held in escrow for distribution to aggrieved consumers; or
- (3) order the supplier to pay to:
 - (A) the attorney acting on behalf of the local law enforcement agency **or local agency**; or
 - (B) the attorney general for the state;
 as applicable, the reasonable costs of the attorney's or the attorney general's investigation and prosecution, expert fees, and court fees

- 1 related to the action.
- 2 The time for bringing an action under subsection (c), as set forth in
- 3 section 5(b) of this chapter, applies to an action brought under this
- 4 subsection."
- 5 Renumber all SECTIONS consecutively.
 (Reference is to HB 1273 as introduced.)