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| Adopted | Rejected |
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## COMMITTEE REPORT

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| YES: | 10 |
| NO:  | 0  |

### MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1273, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

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

credit, to a person for purposes that are primarily personal, familial, charitable, agricultural, or household, or a solicitation to supply any of these things. However, the term includes the following:

(A) A transfer of structured settlement payment rights under IC 34-50-2.

(B) An unsolicited advertisement sent to a person by telephone facsimile machine offering a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible.

(C) The collection of or attempt to collect a debt by a debt collector.

*(D) The provision of a product or service to a:*

*(i) state law enforcement agency; ~~or~~*

*(ii) local law enforcement agency;*

**(iii) state agency; or**

**(iv) local agency;**

*in Indiana.*

~~(D)~~ **(E)** *Conduct that arises from, occurs in connection with, or otherwise involves a transaction for emergency towing (as defined in IC 24-14-2-5) of a personal or commercial vehicle.*

(2) "Person" means an individual, corporation, the state of Indiana or its subdivisions or agencies, business trust, estate, trust, partnership, association, nonprofit corporation or organization, or cooperative or any other legal entity.

(3) "Supplier" means the following:

(A) A seller, lessor, assignor, or other person who regularly engages in or solicits consumer transactions, including soliciting a consumer transaction by using a telephone facsimile machine to transmit an unsolicited advertisement. The term includes a manufacturer, *a* wholesaler, ~~or~~ *a* retailer, *or, in a consumer transaction described in subdivision (1)(D), an entity that provides a product or service to a state law enforcement agency, ~~or~~ local law enforcement agency, state agency, or local agency in Indiana,* whether or not the person deals directly with the consumer.

(B) A debt collector.

(4) "Subject of a consumer transaction" means the personal

property, real property, services, or intangibles offered or furnished in a consumer transaction.

(5) "Cure" as applied to a deceptive act, means either:

(A) to offer in writing to adjust or modify the consumer transaction to which the act relates to conform to the reasonable expectations of the consumer generated by such deceptive act and to perform such offer if accepted by the consumer; or

(B) to offer in writing to rescind such consumer transaction and to perform such offer if accepted by the consumer.

The term includes an offer in writing of one (1) or more items of value, including monetary compensation, that the supplier delivers to a consumer or a representative of the consumer if accepted by the consumer.

(6) "Offer to cure" as applied to a deceptive act is a cure that:

(A) is reasonably calculated to remedy a loss claimed by the consumer; and

(B) includes a minimum additional amount that is the greater of:

(i) ten percent (10%) of the value of the remedy under clause (A), but not more than four thousand dollars (\$4,000); or

(ii) five hundred dollars (\$500);

as compensation for attorney's fees, expenses, and other costs that a consumer may incur in relation to the deceptive act.

(7) "Uncured deceptive act" means: ~~a deceptive act.~~

(A) **a deceptive act** with respect to which a consumer who has been damaged by such act has given notice to the supplier under section 5(a) of this chapter; and

(B) either:

(i) no offer to cure has been made to such consumer within thirty (30) days after such notice; or

(ii) the act has not been cured as to such consumer within a reasonable time after the consumer's acceptance of the offer to cure.

(8) "Incurable deceptive act" means a deceptive act done by a supplier as part of a scheme, artifice, or device with intent to defraud or mislead. The term includes a failure of a transferee of

structured settlement payment rights to timely provide a true and complete disclosure statement to a payee as provided under IC 34-50-2 in connection with a direct or indirect transfer of structured settlement payment rights.

**(9) "Local 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 a political subdivision created or established under law.**

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

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

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

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

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

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

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

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

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

13 (6) That a specific price advantage exists as to such subject of a  
14 consumer transaction, if it does not and if the supplier knows or  
15 should reasonably know that it does not.

16 (7) That the supplier has a sponsorship, approval, or affiliation in  
17 such consumer transaction the supplier does not have, and which  
18 the supplier knows or should reasonably know that the supplier  
19 does not have.

20 (8) That such consumer transaction involves or does not involve  
21 a warranty, a disclaimer of warranties, or other rights, remedies,  
22 or obligations, if the representation is false and if the supplier  
23 knows or should reasonably know that the representation is false.

24 (9) That the consumer will receive a rebate, discount, or other  
25 benefit as an inducement for entering into a sale or lease in return  
26 for giving the supplier the names of prospective consumers or  
27 otherwise helping the supplier to enter into other consumer  
28 transactions, if earning the benefit, rebate, or discount is  
29 contingent upon the occurrence of an event subsequent to the time  
30 the consumer agrees to the purchase or lease.

31 (10) That the supplier is able to deliver or complete the subject of  
32 the consumer transaction within a stated period of time, when the  
33 supplier knows or should reasonably know the supplier could not.  
34 If no time period has been stated by the supplier, there is a  
35 presumption that the supplier has represented that the supplier  
36 will deliver or complete the subject of the consumer transaction  
37 within a reasonable time, according to the course of dealing or the  
38 usage of the trade.

- 1 (11) That the consumer will be able to purchase the subject of the  
2 consumer transaction as advertised by the supplier, if the supplier  
3 does not intend to sell it.
- 4 (12) That the replacement or repair constituting the subject of a  
5 consumer transaction can be made by the supplier for the estimate  
6 the supplier gives a customer for the replacement or repair, if the  
7 specified work is completed and:
- 8 (A) the cost exceeds the estimate by an amount equal to or  
9 greater than ten percent (10%) of the estimate;
- 10 (B) the supplier did not obtain written permission from the  
11 customer to authorize the supplier to complete the work even  
12 if the cost would exceed the amounts specified in clause (A);
- 13 (C) the total cost for services and parts for a single transaction  
14 is more than seven hundred fifty dollars (\$750); and
- 15 (D) the supplier knew or reasonably should have known that  
16 the cost would exceed the estimate in the amounts specified in  
17 clause (A).
- 18 (13) That the replacement or repair constituting the subject of a  
19 consumer transaction is needed, and that the supplier disposes of  
20 the part repaired or replaced earlier than seventy-two (72) hours  
21 after both:
- 22 (A) the customer has been notified that the work has been  
23 completed; and
- 24 (B) the part repaired or replaced has been made available for  
25 examination upon the request of the customer.
- 26 (14) Engaging in the replacement or repair of the subject of a  
27 consumer transaction if the consumer has not authorized the  
28 replacement or repair, and if the supplier knows or should  
29 reasonably know that it is not authorized.
- 30 (15) The act of misrepresenting the geographic location of the  
31 supplier by listing an alternate business name or an assumed  
32 business name (as described in IC 23-0.5-3-4) in a local telephone  
33 directory if:
- 34 (A) the name misrepresents the supplier's geographic location;
- 35 (B) the listing fails to identify the locality and state of the  
36 supplier's business;
- 37 (C) calls to the local telephone number are routinely forwarded  
38 or otherwise transferred to a supplier's business location that

- 1 is outside the calling area covered by the local telephone  
2 directory; and  
3 (D) the supplier's business location is located in a county that  
4 is not contiguous to a county in the calling area covered by the  
5 local telephone directory.
- 6 (16) The act of listing an alternate business name or assumed  
7 business name (as described in IC 23-0.5-3-4) in a directory  
8 assistance data base if:  
9 (A) the name misrepresents the supplier's geographic location;  
10 (B) calls to the local telephone number are routinely forwarded  
11 or otherwise transferred to a supplier's business location that  
12 is outside the local calling area; and  
13 (C) the supplier's business location is located in a county that  
14 is not contiguous to a county in the local calling area.
- 15 (17) The violation by a supplier of IC 24-3-4 concerning  
16 cigarettes for import or export.
- 17 (18) The act of a supplier in knowingly selling or reselling a  
18 product to a consumer if the product has been recalled, whether  
19 by the order of a court or a regulatory body, or voluntarily by the  
20 manufacturer, distributor, or retailer, unless the product has been  
21 repaired or modified to correct the defect that was the subject of  
22 the recall.
- 23 (19) The violation by a supplier of 47 U.S.C. 227, including any  
24 rules or regulations issued under 47 U.S.C. 227.
- 25 (20) The violation by a supplier of the federal Fair Debt  
26 Collection Practices Act (15 U.S.C. 1692 et seq.), including any  
27 rules or regulations issued under the federal Fair Debt Collection  
28 Practices Act (15 U.S.C. 1692 et seq.).
- 29 (21) A violation of IC 24-5-7 (concerning health spa services), as  
30 set forth in IC 24-5-7-17.
- 31 (22) A violation of IC 24-5-8 (concerning business opportunity  
32 transactions), as set forth in IC 24-5-8-20.
- 33 (23) A violation of IC 24-5-10 (concerning home consumer  
34 transactions), as set forth in IC 24-5-10-18.
- 35 (24) A violation of IC 24-5-11 (concerning real property  
36 improvement contracts), as set forth in IC 24-5-11-14.
- 37 (25) A violation of IC 24-5-12 (concerning telephone  
38 solicitations), as set forth in IC 24-5-12-23.



- 1 (26) A violation of IC 24-5-13.5 (concerning buyback motor  
2 vehicles), as set forth in IC 24-5-13.5-14.
- 3 (27) A violation of IC 24-5-14 (concerning automatic  
4 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 5 (28) A violation of IC 24-5-15 (concerning credit services  
6 organizations), as set forth in IC 24-5-15-11.
- 7 (29) A violation of IC 24-5-16 (concerning unlawful motor  
8 vehicle subleasing), as set forth in IC 24-5-16-18.
- 9 (30) A violation of IC 24-5-17 (concerning environmental  
10 marketing claims), as set forth in IC 24-5-17-14.
- 11 (31) A violation of IC 24-5-19 (concerning deceptive commercial  
12 solicitation), as set forth in IC 24-5-19-11.
- 13 (32) A violation of IC 24-5-21 (concerning prescription drug  
14 discount cards), as set forth in IC 24-5-21-7.
- 15 (33) A violation of IC 24-5-23.5-7 (concerning real estate  
16 appraisals), as set forth in IC 24-5-23.5-9.
- 17 (34) A violation of IC 24-5-26 (concerning identity theft), as set  
18 forth in IC 24-5-26-3.
- 19 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),  
20 as set forth in IC 24-5.5-6-1.
- 21 (36) A violation of IC 24-8 (concerning promotional gifts and  
22 contests), as set forth in IC 24-8-6-3.
- 23 (37) A violation of IC 21-18.5-6 (concerning representations  
24 made by a postsecondary credit bearing proprietary educational  
25 institution), as set forth in IC 21-18.5-6-22.5.
- 26 (38) A violation of IC 24-5-15.5 (concerning collection actions of  
27 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 28 (39) A violation of IC 24-14 (concerning towing services), as set  
29 forth in IC 24-14-10-1.
- 30 (40) A violation of IC 24-5-14.5 (concerning misleading or  
31 inaccurate caller identification information), as set forth in  
32 IC 24-5-14.5-12.
- 33 (41) A violation of IC 24-5-27 (concerning intrastate inmate  
34 calling services), as set forth in IC 24-5-27-27.
- 35 (42) A violation of IC 15-21 (concerning sales of dogs by retail  
36 pet stores), as set forth in IC 15-21-7-4.
- 37 (43) A violation of IC 24-4-23 (concerning the security of  
38 information collected and transmitted by an adult oriented website

operator), as set forth in IC 24-4-23-14.

**(44) A violation of IC 24-4-27.5 (concerning proxy advisors),  
as set forth in IC 24-4-27.5-12.**

(c) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(d) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(e) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(f) For purposes of subsection (b)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

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

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

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

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

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

Except as provided in subsection (k), the court may award reasonable attorney's fees to the party that prevails in an action under this subsection. This subsection does not apply to a consumer transaction in real property, including a claim or action involving a construction defect (as defined in IC 32-27-3-1(5)) brought against a construction professional (as defined in IC 32-27-3-1(4)), 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. This subsection also does not apply to a violation of IC 24-4.7, IC 24-5-12, IC 24-5-14, or IC 24-5-14.5. Actual damages awarded to a person under this section have priority over any civil penalty imposed under this chapter.

(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

1 within one (1) year after the judgment becomes final shall be returned  
 2 to the party depositing the same. This subsection does not apply to a  
 3 consumer transaction in real property, except for purchases of time  
 4 shares and camping club memberships. This subsection does not apply  
 5 with respect to a deceptive act described in section 3(b)(20) of this  
 6 chapter. Actual damages awarded to a class have priority over any civil  
 7 penalty imposed under this chapter.

8 (c) The attorney general may bring an action to enjoin an unfair,  
 9 abusive, or deceptive act, omission, or practice in connection with a  
 10 consumer transaction, including a deceptive act described in section  
 11 3(b)(20) of this chapter, notwithstanding subsections (a) and (b).  
 12 However, the attorney general may seek to enjoin patterns of incurable  
 13 deceptive acts with respect to consumer transactions in real property.  
 14 In addition, the court may:

- 15 (1) issue an injunction;
- 16 (2) order the supplier to make payment of the money unlawfully  
 17 received from the aggrieved consumers to be held in escrow for  
 18 distribution to aggrieved consumers;
- 19 (3) for a knowing violation against a senior consumer, increase  
 20 the amount of restitution ordered under subdivision (2) in any  
 21 amount up to three (3) times the amount of damages incurred or  
 22 value of property or assets lost;
- 23 (4) order the supplier to pay to the state the reasonable costs of  
 24 the attorney general's investigation and prosecution, expert fees,  
 25 and court fees related to the action;
- 26 (5) provide for the appointment of a receiver; and
- 27 (6) order the department of state revenue to suspend the supplier's  
 28 registered retail merchant certificate, subject to the requirements  
 29 and prohibitions contained in IC 6-2.5-8-7(a)(5), if the court finds  
 30 that a violation of this chapter involved the sale or solicited sale  
 31 of a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic  
 32 drug lookalike substance (as defined in IC 35-31.5-2-321.5  
 33 (repealed)) (before July 1, 2019), a controlled substance analog  
 34 (as defined in IC 35-48-1.1-8), or a substance represented to be a  
 35 controlled substance (as described in IC 35-48-4-4.6).

36 (d) In an action under subsection (a), (b), (c), or (n) the court may  
 37 void or limit the application of contracts or clauses resulting from  
 38 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 related to the action.

The time for bringing an action under subsection (c), as set forth in

- 1 section 5(b) of this chapter, applies to an action brought under this
- 2 subsection."
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1273 as introduced.)

**and when so amended that said bill do pass.**

Representative Teshka