

SUBJECT: Reducing the maximum civil penalty for deceptive trade violations

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 9 ayes — Martinez Fischer, Darby, Beckley, Collier, Landgraf, Moody, Parker, Patterson, Shine
0 nays

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Business and Commerce Code ch. 17 subch. E, the Deceptive Trade Practices-Consumer Protection Act, allows the consumer protection division of the attorney general's office to sue a person engaged in false, misleading, or deceptive acts or practices in the conduct of any trade or commerce.

The division may request, and a court may award, a civil penalty to be paid to the state of up to \$20,000 per violation and, if the person was attempting to defraud a consumer aged 65 or older, an additional amount of up to \$250,000.

DIGEST: SB 2140 would reduce the maximum civil penalty per violation of the Deceptive Trade Practices-Consumer Protection Act from \$20,000 to \$10,000.

The bill would take effect September 1, 2019, and would apply only to an action filed by the consumer protection division on or after that date.

SUPPORTERS SAY: SB 2140 would maintain the deterrent to violations of consumer protection law while reducing the excessive penalty that could result from a situation in which many violations occurred together as a single series of events.

A wide range of actions can constitute a violation under the Deceptive Trade Practices-Consumer Protection Act (DTPA). Consequently, a series of individual actions that were part of one scheme could add up to a cumulative penalty of millions of dollars. The bill would remedy this by reducing the per-violation civil penalty from \$20,000 to \$10,000.

Although current and past attorneys general largely have used the DTPA judiciously, this bill would help ensure that the power given to the office by the DTPA to punish companies would not be abused in the future.

**OPPONENTS
SAY:**

SB 2140 could embolden deceptive and harmful conduct by reducing the maximum civil penalty per violation of the DTPA, and there is no reason to hamstring efforts to enforce the act.