

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

**DRAFT**

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole

**DATE:** March 20, 2018

**SUBJECT:** Report on Bill 22-185, the “the “Consumer Protection Clarification and Enhancement Amendment Act of 2018”

The Committee of the Whole, to which Bill 22-185, the “Consumer Protection Clarification and Enhancement Amendment Act of 2018” was referred, reports favorably thereon, with amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

Bill 22-185, the “Consumer Protection Clarification and Enhancement Amendment Act of 2018”<sup>1</sup> was introduced by Chairman Mendelson at the request of the Attorney General on March 9, 2017. The purpose of Bill 22-185 is to update the District’s Consumer Protection Procedures Act (CCPA)<sup>2</sup> so that it is consistent with other states’ consumer protection laws as well as Federal Trade Commission law. The bill, as amended, proposes the following: 1) increase penalties for CPPA violations; 2) introduce the concept of unfair business practices into the CPPA; 3) make it a violation of the CPPA for a company to breach any settlement agreement resolving a prior CPPA violation; and 4) clarify the equitable relief available in an action brought by the Office of the Attorney General (OAG) for a violation of the CPPA includes an order requiring a violator to take affirmative action, including making restitution of money or property.

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<sup>1</sup> The title of the bill has been updated to reflect that the bill was introduced in 2017 but is being considered by the Council in 2018. Moreover, since this is an amendatory bill the term “amendment” was added to the title of the bill.

<sup>2</sup> D.C. Law 1-76; D.C. Official Code §28-3901 *et seq.*

The CPPA is an important tool for the District government to protect consumers. It also grants consumers the authority to enforce the CPPA by bringing a private right of action which is crucial for consumer justice. During the hearing on Bill 22-185, Mr. Ziperman, Director of the OAG's Office of Consumer Protection, testified about how his office since its establishment in 2015 has taken a more proactive role enforcing the District's consumer protection laws. The CPPA, as utilized by the OAG, has helped protect District residents from unfair and deceptive business practices by Volkswagen, large pharmaceutical companies, local immigration providers, usurious lenders, and Sanford Capital.<sup>3</sup> Bill 22-185, intends to give the OAG and consumers the necessary tools to continue to prevent bad actors from taking advantage of District residents.

### ***Civil Penalty Provision and Enforcement***

As introduced, Bill 22-185 proposed to increase the civil penalty that the OAG can recover for CPPA violations from \$1,000 to \$2,500 for an initial violation and \$5,000 for each subsequent violation. The current civil penalty is one of the lowest in the country. According to the National Consumer Law Center (NCLC), the District's current civil penalty is considered weak.<sup>4</sup> NCLC provides that it is important for a state to have a penalty that is large enough to send a message to companies that unfair and deceptive practices will not be tolerated.<sup>5</sup> The Committee agrees that the civil penalty is too low and should be increased. Further, the Committee notes that the civil penalty has not increased since 2000.<sup>6</sup> Also, the Committee agrees with Mr. Ziperman's testimony that raising the penalty will deter bad actors and the new bifurcated penalty system will allow the OAG to "more harshly punish recidivists."<sup>7</sup>

<u>States With Weak Civil Penalty Provisions</u>
<u>No civil penalty for initial violations</u> Rhode Island
<u>\$1000</u> <i>District of Columbia</i> , Missouri, Pennsylvania, Tennessee, and Maryland*
<u>\$2000-\$2500</u> Alabama, California, Colorado, Kentucky, Nebraska, South Dakota, Utah, Virginia, and Washington

\*Maryland does provide for a \$5,000 fine for each subsequent violation.

Source: National Consumer Law Center

Although the Committee agrees that the civil penalty needs to be increased, it should be increased to an amount that is high enough, as stated above, to be considered a sufficient deterrent. Increasing the initial fine to \$2,500 would still be considered weak and increasing the subsequent fines to \$5,000 would be considered average according to the information provided by NCLC on

<sup>3</sup> Phil Ziperman, Director, Office of Consumer Protection, Office of the Attorney General for the District of Columbia, Testimony before the DC Council Committee of the Whole, 1, November 28, 2017.

<sup>4</sup> Carolyn L. Carter, National Consumer Law Center, Consumer Protection in the States: A 50 State Evaluation of Unfair and Deceptive Practices Laws 55 (2018).

<sup>5</sup> *Id.* at 30.

<sup>6</sup> Section 1402(e) of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000 (D.C. Law 13-172; D.C. Official Code § 28-3909).

<sup>7</sup> *Supra* note 3, at 2.

other states civil penalty provisions.<sup>8</sup> States are considered to have strong civil penalty provisions if they range from \$10,000 to \$40,000.<sup>9</sup> Twenty-two states have civil penalty provisions that range from \$10,000 to \$50,000.<sup>10</sup>

The Committee amended the bill, as introduced, to increase the civil penalty to \$5,000 for an initial violation and \$10,000 for each subsequent violation. This was done for two reasons: (1) to ensure that the civil penalty is large enough to deter bad actors; and (2) to ensure that the CPPA statute aligns with other states that are considered to have the strongest and most robust civil penalty provisions.

The Committee was contacted regarding concerns from the DC Insurance Federation (DCIF) that insurers should be exempt from the CPPA because insurers are already regulated by the District government under the Unfair Insurance Trade Practices provisions that were included in the Insurance Trade and Economic Development Amendment Act of 2000 (Unfair Insurance Trade Act).<sup>11</sup> DCIF raised concerns about duplication in the DC Code and insurers being subjected to multiple fines and penalties for the same offense.

The Committee reviewed this concern and has determined that an exemption should not be included in this bill. First, the bill does not intend to extend coverage of the CPPA to include insurers. They are already subject to the provisions under both the Unfair Insurance Trade Act and the CPPA.<sup>12</sup> In addition, there is a difference in how actions are brought against insurers under the Unfair Insurance Trade Act and the CPPA which the Committee believes, at this time, should remain in place.

The Unfair Insurance Trade Act provides the Commissioner of the Department of Insurance, Securities, and Banking the authority to take an administrative enforcement action against an insurance company that commits an unfair trade practice.<sup>13</sup> Further, under the Unfair Insurance Trade Act the OAG can only bring an action to enforce an administrative order that was issued by the Commissioner.<sup>14</sup> For consumers, if the Commissioner does not find a violation then an aggrieved consumer may, within 60 days, appeal the Commissioner's decision to the District of Columbia Court of Appeals.<sup>15</sup>

The CPPA grants the OAG the authority to bring its own action against an insurer for committing an unfair or deceptive trade practice. Additionally, a consumer can bring a private right of action against an insurer for violating the CPPA.<sup>16</sup> In essence, under the CPPA the OAG and consumers can bring an action in the courts without awaiting an administrative remedy.

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<sup>8</sup> Carolyn L. Carter, National Consumer Law Center, *Consumer Protection in the States: A 50 State Evaluation of Unfair and Deceptive Practices Laws* 17 (2009).

<sup>9</sup> *Id.* at 18.

<sup>10</sup> *Supra* note 4, at 31.

<sup>11</sup> D.C. Law 13-265; D.C. Official Code § 31-2231.01 *et seq.*

<sup>12</sup> When the Council adopted the Unfair Insurance Trade Act it did not include language to exempt insurers from the CPPA.

<sup>13</sup> See D.C. Official Code § 31-2231.22.

<sup>14</sup> *Id.*

<sup>15</sup> D.C. Official Code § 31-2231.24.

<sup>16</sup> D.C. Official Code § 28-3905(k)(1)(A).

Twenty-one states have immunized insurers from their unfair and deceptive trade practices acts.<sup>17</sup> However, it is important to note that the NCLC advises, and the Committee agrees, against immunizing insurers because it would weaken the protections for consumers.<sup>18</sup> A change as the one being requested would narrow the scope of coverage of the CPPA. Moreover, the Committee believes an exemption is not warranted in this bill since the issue was not addressed in the introduction of the bill and it was not raised at the November 28, 2017 hearing on the bill.

Bill 22-185 will grant the OAG greater authority to enforce settlement agreements reached with a company that has violated the CPPA. The bill proposes to do this by including as an enumerated deceptive or unfair trade practice the violation of an agreement between the OAG and the company. Settlement agreements are necessary to ensure that a company comes into compliance with the CPPA requirements. With this change not only will the OAG have more authority to enforce the settlement agreements, but now they will be able to assess a civil penalty on a company that is not in compliance with the settlement agreement.

Currently, if a company breaches a settlement agreement the only cause of action the OAG can bring to enforce the agreement is a contractual one. According to Mr. Ziperman, this is not best practice and is more limited than what is proposed by Bill 22-185.<sup>19</sup> Further, Mr. Ziperman testified that “this type of provision is helpful largely because it allows the OAG to invoke a court’s equitable powers to enforce the injunction.”<sup>20</sup> Adopting this provision in the bill will protect District consumers from repeat bad actors. Additionally, it will align the District’s CPPA with other states consumer protection laws.

### ***Unfair and Deceptive Business Practices***

Bill 22-185 intends to strengthen and expand the scope of the CPPA by allowing the OAG and District consumers to bring an action based on unfair consumer transactions. To determine whether a business practice is unfair, Bill 22-185 provides that due consideration and weight shall be given to the FTC and the federal courts interpretation of the term “unfair or deceptive act or practice” as provided by 15 U.S.C. § 45(a). The FTC determines conduct is unfair if the following occur: (a) the act or practice causes or is likely to cause substantial injury to consumers; (b) the consumer cannot reasonably avoid the unfair act or practice; and (c) the unfair act or practice is not outweighed by countervailing benefits to consumer or to competition.<sup>21</sup> The primary purpose of the FTC’s authority is to protect consumer independence by stopping business practices that impede a consumer’s ability to make informed choices.<sup>22</sup>

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<sup>17</sup> *Supra* note 4, at 20.

<sup>18</sup> *Id.* at 20-22.

<sup>19</sup> *Supra* note 3, at 2-3.

<sup>20</sup> *Supra* note 3, at 2.

<sup>21</sup> 15 U.S.C. § 45(n).

<sup>22</sup> J. Howard Beales, Federal Trade Commission, *The FTC’s Use of Unfairness Authority: Its Rise, Fall, and Resurrection* 5 (2003).

Mr. Ziperman indicated at the November 28, 2017 hearing that the “unfairness doctrine” has been adopted by other states, including Maryland, and the Consumer Financial Protection.<sup>23</sup> Further, he testified that this bill will help the OAG prosecute cases involving abusive lending practices.<sup>24</sup> He added that Bill 22-185 will allow the District’s courts to look to the decisions of the FTC for guidance when they examine issues that are not yet addressed under District law.<sup>25</sup> Allowing the OAG and District consumers to bring an action against a company when it deceives or commits an unfair trade practice will protect District residents from unscrupulous actors. It will also act as a safeguard to keep bad actors from operating in the District.

## II. LEGISLATIVE CHRONOLOGY

- March 9, 2017 Bill 22-185, the “Consumer Protection Clarification and Enhancement Amendment Act of 2018” is introduced by Chairman Mendelson at the request of the Attorney General.
- March 17, 2017 Notice of Intent to Act on Bill 22-185 is published in the *DC Register*.
- March 21, 2017 PR 22-185 is “read” at a Committee of the Whole meeting and the referral to the Committee of the Whole is official.
- October 20, 2017 Notice of Public Hearing on Bill 22-185 is published in the *DC Register*.
- November 28, 2017 The Committee of the Whole hold a public hearing on Bill 22-185.
- March 20, 2018 The Committee of the Whole marks up Bill 22-185.

## III. POSITION OF THE EXECUTIVE

The Committee received no testimony or comments from the Executive on Bill 22-185.

## IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS

The Committee received no testimony or comments from Advisory Neighborhood Commissions on Bill 22-185.

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<sup>23</sup> *Supra* note 3, at 2.

<sup>24</sup> *Id.*

<sup>25</sup> *Supra* note 3, at 3.

## V. SUMMARY OF TESTIMONY

The Committee of the Whole held a public hearing on Bill 22-185 on Tuesday, November 28, 2017. The testimony summarized below is from that hearing. Copies of written testimony are attached to this report.

*Phil Ziperman, Director, Office of Consumer Protection, Office of the Attorney General* testified on behalf of the Attorney General in support of Bill 22-185. Mr. Ziperman provided that the intent of the bill is to strengthen the protections provided to the District's consumer. He stated the current penalties for violations of the CPPA are inadequate. Mr. Ziperman testified the bill intends to address this issue by creating a bifurcated penalty approach by establishing a \$2,500 fine for an initial violation and a \$5,000 fine for each subsequent violation. Further, he provided that the bill proposes to add a cause of action based on unfair consumer transactions which would help the OAG prosecute cases involving abusive lending practices. Mr. Ziperman added the bill provides that a breach of a settlement agreement between the District and a company would be a violation of the CPPA. This provision would make it easier for the OAG to bring enforcement actions against companies that breach the settlement agreements. Finally, he stated that the bill codifies what is common practice of the District's courts by adding a provision that provides that the courts may give due weight and consideration to the decisions of the FTC.

## VI. IMPACT ON EXISTING LAW

Bill 22-185 amends D.C. Official Code § 28-3901 by adding a new subsection (d) to provide that due consideration shall be given to the interpretation of the term "unfair or deceptive act or practice" by the FTC and by the federal courts.

Bill 22-185 amends the section heading and the lead-in language for D.C. Official Code § 28-3904 to clarify that an unfair trade practice act is a violation of the CPPA. Furthermore, a new subsection (jj) is added to provide it is a violation of the CPPA for a merchant to breach any settlement resolving a prior CPPA violation.

Bill 22-185 amends D.C. Official Code § 28-3909 to clarify the equitable relief available in an action brought by the OAG for a violation of the CPPA. Furthermore, it increases the fine amount for initial and subsequent CPPA violations.

Bill 22-185 amends D.C. Official Code § 28-3910 to replace references to the Corporation Counsel with references to the OAG.

## VII. FISCAL IMPACT

The attached March 6, 2018 fiscal impact statement from the District's Chief Financial Officer states that funds are sufficient in the FY 2018 through FY 2021 budget and financial plan to implement Bill 21-185.

## VIII. SECTION-BY-SECTION ANALYSIS

- Section 1 States the short title of Bill 22-185.
- Section 2 Amends Chapter 39 of Title 28 of the District of Columbia Code.

*subsection (a)* Makes a clarifying amendment to the table of contents.

*subsection (b)* Provides that the District of Columbia courts may give due weight and consideration to the interpretation by the Federal Trade Commission and the federal courts of the term “unfair or deceptive act or practice.”

*subsection (c)* Clarifies that an unfair trade practice shall be considered a CPPA violation. In addition, it provides that it is a CPPA violation for a merchant to breach any settlement resolving a prior CPPA violation.

*subsection (d)* Clarifies that the equitable relief available in an action brought by the OAG for a CPPA violation includes an order requiring a violator to take affirmative action, including making restitution of money or property. Furthermore, it increases the fine amounts for violations of the CPPA from \$1,000 to \$5,000 for an initial violation and \$10,000 for every subsequent violation.

*subsection (e)* Makes a technical amendment to clarify that the OAG, and not the Corporation Counsel, has the authority to conduct investigations pursuant to the CPPA.

Section 3 Adopts the Fiscal Impact Statement.

Section 4 Establishes the effective date (standard 30-day congressional review language).

## IX. COMMITTEE ACTION

## **X. ATTACHMENTS**

1. Bill 22-185 as introduced.
2. Written Testimony.
3. Fiscal Impact Statement for Bill 22-185.
4. Legal Sufficiency Determination for Bill 22-185.
5. Comparative Print for Bill 22-185.
6. Committee Print for Bill 22-185.

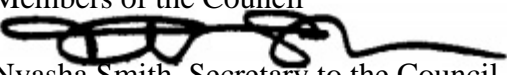


**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington D.C. 20004**

Memorandum

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To : Members of the Council

From :   
Nyasha Smith, Secretary to the Council

Date : March 13, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Thursday, March 9, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Consumer Protection Clarification and Enhancement Act of 2017", B22-0185

INTRODUCED BY: Chairman Mendelson at the request of the Attorney General

The Chairman is referring this legislation to the Committee of the Whole with comments from the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel  
Budget Director  
Legislative Services

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**

**ATTORNEY GENERAL**  
**KARL A. RACINE**



2017 MAR -9 PM 2:32

OFFICE OF THE  
SECRETARY

March 9, 2017

The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Suite 504  
Washington, DC 20004

Dear Chairman Mendelson:

I am writing to transmit the “Consumer Protection Clarification and Enhancement Act of 2017” to the Council of the District of Columbia for consideration. The purpose of this bill is to update key portions of the District’s Consumer Protection Procedures Act (CPPA) so that it will be consistent with the scope of similar statutes in other states as well as Federal Trade Commission (FTC) law. The bill also introduces the concept of an “unfair” business practice into the CPPA. Unfairness is a theory that is used by many states and the FTC when pursuing actions for unlawful trade practices. Existing FTC jurisprudence defines an unfair practice to be one that (1) causes substantial harm to consumers; (2) cannot be reasonably avoided; and (3) on balance, does not benefit the marketplace. Such a theory would aid District investigations in cases, such as in abusive lending practice claims.

The second significant revision raises the amount of civil penalties that the District can assess per violation from \$1,000 to \$2,500. The existing penalty amount under the CPPA is the lowest among state CPPAs. Raising the amount to \$2,500 will still place the District among the lower tier of states. The amendment addresses this by providing a second tier penalty amount of \$5,000 a violation for merchants already found to have violated the CPPA and who repeat their the same violation. Raising the penalty amount available under the CPPA will permit the District to seek amounts large enough to deter bad actors given the relatively small size of the District's population as compared to other states.

The third revision adds subpart (ii) to sec. 28-3904, which makes it a violation of the CPPA if a merchant breaches any settlement resolving a prior violation of the CPPA. This amendment will allow the District to seek equitable remedies in court when enforcing its settlement agreements (as opposed to limiting the District to the contract remedy of specific performance). This

The Honorable Phil Mendelson

March 9, 2017

Page Two

provision also changes the CPPA so that it will be more consistent with other state consumer protection acts and make it simpler for the District to enforce its settlements when they are breached.

If you have any questions, you may contact me or your staff may contact Deputy Attorney General James A. Pittman on (202) 724-6517.

Sincerely,

A handwritten signature in black ink, appearing to be 'Karl A. Racine', written in a cursive style with several loops and a long horizontal stroke at the end.

Karl A. Racine

Attorney General for the District of Columbia



Chairman Phil Mendelson  
at the request of the Attorney General

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A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Title 28 of the District of Columbia Code to prohibit unfair trade practices, include a violation of an assurance of voluntary compliance as a deceptive or unfair trade practice, clarify that restitution for an unfair or deceptive trade practice is an equitable remedy, and increase the penalty for violations of consumer protection laws.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the “Consumer Protection Clarification and Enhancement Act of 2017”.

Sec. 2. Subtitle II of Title 28 of the District of Columbia Official Code is amended as follows:

(a) A new subsection 28-3901 is added to read as follows:

“(d) In construing the term “unfair or deceptive trade practices” due consideration and weight shall be given to the interpretation of section 5(a) of An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes, September 26, 1914 (38 Stat 719; 15 U.S.C. § 45(a)) by the Federal Trade Commission and the federal courts.”.

(b) Section 28-3904 is amended as follows:

36 (1) By amending the lead-in language by striking the phrase “a violation” and  
37 inserting the phrase “an unfair or deceptive trade practice in violation” in its place.

38 (2) Subsection (gg) is amended by striking the word “or” at the end.

39 (3) Subsection (hh) is amended by striking the period at the end and inserting  
40 the phrase “; or” in its place.

41 (4) A new sub-subsection (ii) is added to read as follows:

42 “(ii) violate any agreement for compliance by merchants with the provisions  
43 of this chapter entered into pursuant to D.C. Official Code § 28-3909(c)(6).”.

44 (c) Section 28-3909 is amended as follows:

45 (1) Subsections (a) and (b) are amended to read as follows:

46 “(a) Notwithstanding any provision of law to the contrary, if the Attorney  
47 General has reason to believe that any person is using or intends to use any method, act,  
48 or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-  
49 3812, 28-3814, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public  
50 interest, the Attorney General, in the name of the District of Columbia, may petition the  
51 Superior Court of the District of Columbia to issue a temporary or permanent injunction  
52 against the use of the method, act, or practice and issue an order requiring the violator to  
53 take affirmative action, including the restitution of money or property. In any action  
54 under this sect, the Attorney General shall not be required to prove damages and the  
55 injunction shall be issued without bond.

56 “(b) In addition, in an action under this section, the Attorney General may  
57 recover:

58 (1) From a merchant who engaged in a first violation of this chapter, a civil

59 penalty of not more than \$2,500 for each violation;

60 (2) From a merchant who has been found to have engaged in a violation of this  
61 chapter and who subsequently repeats the same violation, a civil penalty of not more than  
62 \$5,000 for each subsequent violation;

63 (3) Economic damages; and

64 (4) The costs of the action, and reasonable attorney's fees.”.

65 (1) Subsection (c) is amended by striking the phrase “Corporation Counsel”  
66 wherever it appears and inserting the phrase “Attorney General” in its place.

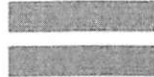
67 Sec.3. The Council adopts the fiscal impact statement provided by the Chief  
68 Financial Officer as the fiscal impact statement required by section 4a of the General  
69 Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C  
70 . Official Code § 1-301.47a).

71 Sec. 4. This act shall take effect following approval by the Mayor (or in the  
72 event of veto by the Mayor, action by the Council to override the veto), a 30-day period  
73 of Congressional review as provided in section 602(c)(1) of the District of Columbia  
74 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-  
75 206.02(c)(1)), and publication in the District of Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



ATTORNEY GENERAL  
KARL A. RACINE



Legal Counsel Division

MEMORANDUM

**TO:** Lolita S. Alston  
Deputy Director  
Office of Legislative Support

**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** February 17, 2017

**SUBJECT:** Legal Sufficiency Review of Draft Bill, the "Consumer Protection  
Clarification and Enhancement Act of 2017"  
(AE-17-089)

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**This is to Certify that** this Office has reviewed the above-referenced draft bill and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.

A handwritten signature in cursive script, appearing to read "Janet M. Robins".

Janet M. Robins



**Statement of Phil Ziperman  
Director, Office of Consumer Protection  
Office of the Attorney General for the District of Columbia**

**Before the**

**The Committee of the Whole  
The Honorable Phil Mendelson, Chairman**

**Public Oversight Hearing  
on  
Bill 22-185, the “Consumer Protection Clarification and Enhancement Act of  
2017”**

**November 28, 2017  
10:30 am  
Room 412  
John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, District of Columbia 20004**





Greetings Chairmen Mendelson, Councilmembers, staff, and residents. My name is Phil Ziperman, Director of the Office of Consumer Protection within the Office of the Attorney General for the District of Columbia. I am pleased to appear on behalf of Attorney General Karl Racine to testify in support of Bill 22-185, the “Consumer Protection Clarification and Enhancement Act of 2017.”

General Racine established the Office of Consumer Protection in November 2015, to take a more prominent role in enforcing the District’s consumer laws, including the *Consumer Protection Procedures Act*. Since setting up the Office, we have been tremendously busy and have accomplished quite a lot. Included among those accomplishments are cases that have been successfully brought against Volkswagen, large pharmaceutical companies, local illegal immigration services providers, usurious lenders (One of which is returning nearly \$3 million to consumers for illegal interest charges.), and our most recent settlement with Sanford Capital, which will refund 75% of the rent paid by tenants while they were forced to live in filthy slum-like conditions. These are just some of the examples of how the Attorney General’s Office is seeking to protect DC consumers. While we are proud of these accomplishments, we can do more. This legislation, introduced by Attorney General Racine will help achieve that goal.

Currently, our *Consumer Protection Procedures Act* provides for the lowest penalty amount in the country - \$1,000. The purpose of our civil penalty statute is to punish businesses that break the law and to deter others from committing similar violations. The very low amount of our penalty provision, coupled by the fact that our penalties are awarded based on transactions with consumers, and we have a smaller population as compared to other states, makes it hard to command the types of penalties that are being awarded by other states under their consumer laws for similar violations. By way of comparison, both Vermont’s and Wyoming’s consumer statute

permits penalties as high as \$10,000 per violation. In comparing the District's penalty provisions to that of the 50 States, the National Consumer Law Center rated our statute as "weak." Bill 22-185 proposes a bifurcated penalty approach - \$2,500 for an initial violation and \$5,000 for second violations if the conduct is repeated. The initial penalty amount will place the District on approximate footing with 41 States. The \$5,000 penalty amount for second violations mirrors the penalty for subsequent violations contained in Maryland's Consumer Protection Act and will allow the District to more harshly punish recidivists.

The second amendment to the Act we have proposed is to add a cause of action based on unfair consumer transactions. The unfairness doctrine, which was first created by the Federal Trade Commission, and has been adopted by the majority of States and the Consumer Financial Protection Bureau, prohibits businesses from practices that are unfair – practices (i) that substantially harm consumers, (ii) that the consumer cannot reasonably avoid, and (iii) the practices do not benefit the marketplace. Unfairness claims are helpful in prosecuting cases involving abusive lending abuses. Again, this amendment is designed to put the District on equal footing with most other states and our federal partners.

The third amendment has to do with enforcing our settlements in court when they are not followed. Most state consumer protection laws provide for settlements called Assurances of Voluntary Compliance or AVCs. These documents, in addition to providing restitution to consumers and penalty payments to the District, almost always contain injunctive terms designed to correct any illegal conduct. The majority of state consumer protection acts make a breach of an injunction in an AVC a separate violation of their consumer protection acts. This type of provision is helpful largely because it allows OAG to invoke a court's equitable powers to enforce the injunction. Absent such a provision, the only cause of action to enforce the

agreement would be contractual ones, which are more limited. Adding this language to the statute will make it easier for the District to bring actions when companies breach its settlements.

Lastly, the bill adds a provision stating that our courts may give due weight and consideration to the decisions of the Federal Trade Commission (FTC). Again, this is a provision common among most state consumer protection acts and it will codify what has already been the practice of the District's courts, which is to look to the decisions of the FTC when they address principals not yet addressed under District law.

On behalf of Attorney General Racine, thank you again for considering Bill 22-185, the "Consumer Protection Clarification and Enhancement Act of 2017" which will strengthen the protections provided to the District's consumers. I am happy to answer any questions.

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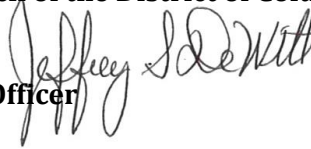
Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** March 6, 2018

**SUBJECT:** UPDATED Fiscal Impact Statement – Consumer Protection Clarification  
and Enhancement Act of 2018

**REFERENCE:** Bill 22-185, Committee Print provided to the Office of Revenue  
Analysis on February 26, 2018

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*This updated fiscal impact statement reflects changes made to the maximum penalty for a consumer protection violation in an updated draft committee print shared with the Office of Revenue Analysis on February 26, 2018. This statement replaces the one issued on February 20, which was based on the draft committee print shared on February 5, 2018.*

**Conclusion**

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the proposed bill.

**Background**

The bill updates three different areas of the District's general consumer protection laws to be more consistent with practices in other states.

First, the bill allows "due consideration and weight" to be given to guidance of the Federal Trade Commission (FTC) in consumer protection lawsuits. The change will allow the Office of the Attorney General (OAG) to bring lawsuits on issues not specifically addressed in current law but that have established guidance from the FTC.

The Honorable Phil Mendelson

FIS: "Consumer Protection Clarification and Enhancement Act of 2018," Committee Print provided to the Office of Revenue Analysis on February 26, 2018.

Second, the bill makes it a violation of statute for a business to violate an "assurance of voluntary compliance" agreement<sup>1</sup>. This change will allow OAG to bring lawsuits against businesses that do not live up to the terms of these voluntary agreements with OAG.

Third, the bill increases the maximum penalty for a violation of consumer protection laws from \$1,000 for each violation to \$5,000 for an initial violation, and \$10,000 for each subsequent violation.

### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the proposed bill. The bill has no cost. Raising the maximum penalty per violation may increase penalty revenue for a given violation. However, because the penalty amount is determined by a court, and because the number of penalties assessed varies annually, it is unclear if an overall revenue increase will occur. Penalties are deposited in OAG's Litigation Support Fund. In fiscal year 2017, the fund received \$4.1 million in revenue. If the Fund exceeds \$5 million in revenue in any given year, the excess revenue goes to the general fund of the District.

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<sup>1</sup> D.C. Official Code § 28-3909(c)(6). These are agreements negotiated between businesses and OAG when OAG has reason to believe that a business is practicing or intending to practice a behavior that violates consumer protection laws. Under the agreements, the businesses admit no wrongdoing and commit to not engaging in certain behavior.

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**District of Columbia Consumer Protection Procedures Act  
(D.C. OFFICIAL CODE § 28-3901 *ET SEQ.*)**

**§ 28-3901. Definitions and purposes.**

(a) As used in this chapter, the term —

(1) “person” means an individual, firm, corporation, partnership, cooperative, association, or any other organization, legal entity, or group of individuals however organized;

(2) “consumer” means:

(A) When used as a noun, a person who, other than for purposes of resale, does or would purchase, lease (as lessee), or receive consumer goods or services, including as a co-obligor or surety, or does or would otherwise provide the economic demand for a trade practice;

(B) When used as an adjective, describes anything, without exception, that:

(i) A person does or would purchase, lease (as lessee), or receive and normally use for personal, household, or family purposes; or

(ii) A person described in § [28-3905\(k\)\(1\)\(B\)](#) or (C) purchases or receives in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.

(3) “merchant” means a person, whether organized or operating for profit or for a nonprofit purpose, who in the ordinary course of business does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice;

(4) “complainant” means one or more consumers who took part in a trade practice, or one or more persons acting on behalf of (not the legal representative or other counsel of) such consumers, or the successors or assigns of such consumers or persons, once such consumers or persons complain to the Department about the trade practice;

(5) “respondent” means one or more merchants alleged by a complainant to have taken part in or carried out a trade practice, or the successors or assigns of such merchants, and includes other persons who may be deemed legally responsible for the trade practice;

(6) “trade practice” means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services;

(7) “goods and services” means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types;



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- (8) “Department” means the Department of Consumer and Regulatory Affairs;
- (9) “Director” means the Director of the Department of Consumer and Regulatory Affairs;
- (10) “Chief of the Office of Compliance” means the senior administrative officer of the Department’s Office of Compliance who is delegated the responsibility of carrying out certain duties specified under section 28-3905;
- (11) “Office of Adjudication” means the Department’s Office of Adjudication which is responsible for carrying out certain duties specified under section 28-3905;
- (12) “Office of Consumer Protection” means the Department’s Office of Consumer Protection which is responsible for carrying out the statutory requirements set forth in § [28-3906](#); and
- (13) “Committee” means the Advisory Committee on Consumer Protection which is responsible for carrying out the statutory requirements set forth in section 28-3907.
- (14) “nonprofit organization” means a person who:
- (A) Is not an individual; and
  - (B) Is neither organized nor operating, in whole or in significant part, for profit.
- (15) “public interest organization” means a nonprofit organization that is organized and operating, in whole or in part, for the purpose of promoting interests or rights of consumers.
- (b) The purposes of this chapter are to:
- (1) assure that a just mechanism exists to remedy all improper trade practices and deter the continuing use of such practices;
  - (2) promote, through effective enforcement, fair business practices throughout the community; and
  - (3) educate consumers to demand high standards and seek proper redress of grievances.
- (c) This chapter shall be construed and applied liberally to promote its purpose. This chapter establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.

(d) In construing the term “unfair or deceptive trade practice” due consideration and weight shall be given to the interpretation by the Federal Trade Commission and the federal courts of the term “unfair or deceptive act or practice,” as employed in section 5(a) of An Act to

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create a Federal Trade Commission, to define its powers and duties, and for other purposes.

September 26, 1914 (38 Stat. 719; 15 U.S.C. § 45(a)).

**§ 28-3904. ~~Unlawful~~ Unfair or Deceptive trade practices.**

It shall be an unfair or deceptive trade practice in violation of this chapter, whether or not any consumer is in fact misled, deceived or damaged thereby, for any person to:

- (a) represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;
- (b) represent that the person has a sponsorship, approval, status, affiliation, certification, or connection that the person does not have;
- (c) represent that goods are original or new if in fact they are deteriorated, altered, reconditioned, reclaimed, or second hand, or have been used;
- (d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;
- (e) misrepresent as to a material fact which has a tendency to mislead;
- (e-1) [r]epresent that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;
- (f) fail to state a material fact if such failure tends to mislead;
- (f-1) [u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead;
- (g) disparage the goods, services, or business of another by false or misleading representations of material facts;
- (h) advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered;
- (i) advertise or offer goods or services without supplying reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying condition which has no tendency to mislead;
- (j) make false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions, or the price in comparison to price of competitors or one’s own price at a past or future time;
- (k) falsely state that services, replacements, or repairs are needed;

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- (l) falsely state the reasons for offering or supplying goods or services at sale or discount prices;
- (m) harass or threaten a consumer with any act other than legal process, either by telephone, cards, letters, or any form of electronic or social media;
- (n) cease work on, or return after ceasing work on, an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise, in other than the condition contracted for, or to impose a separate charge to reassemble or restore such an object to such a condition without notification of such charge prior to beginning work on or receiving such object;
- (o) replace parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise when such parts or components are not defective, unless requested by the consumer;
- (p) falsely state or represent that repairs, alterations, modifications, or servicing have been made and receiving remuneration therefor when they have not been made;
- (q) fail to supply to a consumer a copy of a sales or service contract, lease, promissory note, trust agreement, or other evidence of indebtedness which the consumer may execute;
- (r) make or enforce unconscionable terms or provisions of sales or leases; in applying this subsection, consideration shall be given to the following, and other factors:
  - (1) knowledge by the person at the time credit sales are consummated that there was no reasonable probability of payment in full of the obligation by the consumer;
  - (2) knowledge by the person at the time of the sale or lease of the inability of the consumer to receive substantial benefits from the property or services sold or leased;
  - (3) gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in transactions by like buyers or lessees;
  - (4) that the person contracted for or received separate charges for insurance with respect to credit sales with the effect of making the sales, considered as a whole, unconscionable; and
  - (5) that the person has knowingly taken advantage of the inability of the consumer reasonably to protect his interests by reasons of age, physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of the agreement, or similar factors;
- (s) pass off goods or services as those of another;
- (t) use deceptive representations or designations of geographic origin in connection with goods or services;

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(u) represent that the subject of a transaction has been supplied in accordance with a previous representation when it has not;

(v) misrepresent the authority of a salesman, representative or agent to negotiate the final terms of a transaction;

(w) offer for sale or distribute any consumer product which is not in conformity with an applicable consumer product safety standard or has been ruled a banned hazardous product under the federal Consumer Product Safety Act (15 U.S.C. § 2051-83), without holding a certificate issued in accordance with section 14(a) of that Act to the effect that such consumer product conforms to all applicable consumer product safety rules (unless the certificate holder knows that such consumer product does not conform), or without relying in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to a consumer product safety rule issued under that Act;

(x) sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law;

(y) violate any provision of the District of Columbia Consumer LayAway Plan Act (section 28-3818);

(z) violate any provision of the Rental Housing Locator Consumer Protection Act of 1979 (section 28-3819) or, if a rental housing locator, to refuse or fail to honor any obligation under a rental housing locator contract;

(z-1) violate any provision of Chapter 46 of this title;

(aa) violate any provision of sections 32-404, 32-405, 32-406, and 32-407;

(bb) refuse to provide the repairs, refunds, or replacement motor vehicles or fails to provide the disclosures of defects or damages required by the Automobile Consumer Protection Act of 1984;

(cc) violate any provision of the Real Property Credit Line Deed of Trust Act of 1987;

(dd) violate any provision of title 16 of the District of Columbia Municipal Regulations;

(ee) violate any provision of the Public Insurance Adjuster Act of 2002 [Chapter 16A of Title 31];

(ff) violate any provision of Chapter 33 of this title;

(gg) violate any provision of the Home Equity Protection Act of 2007 [Chapter 24A of Title 42];

(hh) fail to make a disclosure as required by § [26-1113\(a-1\)](#); ~~or~~

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(ii) violate any provision of Chapter 53 of this title; or:

“(jj) violate any agreement entered into pursuant to D.C. Official Code § 28-3909(c)(6).”.

**§ 28-3909. Restraining prohibited acts.**

~~a) Notwithstanding any provision of law to the contrary, if the Corporation Counsel has reason to believe that any person is using or intends to use any method, act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Corporation Counsel, in the name of the District of Columbia, may petition the Superior Court of the District of Columbia to issue a temporary or permanent injunction against the use of the method, act, or practice. In any action under this section, the Corporation Counsel shall not be required to prove damages and the injunction shall be issued without bond. The Corporation Counsel may recover restitution for property lost or damages suffered by consumers as a consequence of the unlawful act or practice.~~

“(a) Notwithstanding any provision of law to the contrary, if the Attorney General for the District of Columbia has reason to believe that any person is using or intends to use any method, act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, , 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Attorney General, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia to obtain a temporary or permanent injunction prohibiting the use of the method, act, or practice and requiring the violator to take affirmative action, including the restitution of money or property. In any action under this section, the Attorney General shall not be required to prove damages and the injunction shall be issued without bond.

~~(b) In addition, in an action under this section, the Corporation Counsel may recover a civil penalty of not more than \$1,000 for each violation, the costs of the action, and reasonable attorney’s fees.~~

“(b) In addition, in an action under this section, the Attorney General for the District of Columbia may recover:

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“(1) From a merchant who engaged in a first violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, a civil penalty of not more than \$5,000 for each violation;

“(2) From a merchant who engaged in a first violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904 and who subsequently repeats the same violation, a civil penalty of not more than \$10,000 for each subsequent violation;

“(3) Economic damages; and

“(4) The costs of the action, and reasonable attorneys’ fees.”.

(c) The ~~Corporation Counsel~~Attorney General for the District of Columbia may also:

(1) represent the interests of consumers before administrative and regulatory agencies and legislative bodies;

(2) assist, advise, and cooperate with private, local, and federal agencies and officials to protect and promote the interests of consumers;

(3) assist, develop, and conduct programs of consumer education and information through public hearings, meetings, publications, or other materials prepared for distribution to consumers;

(4) undertake activities to encourage local business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services and in the extension of consumer credit;

(5) perform other functions and duties which are consistent with the purposes or provisions of this chapter, and with the ~~Corporation’s Counsel’s~~Attorney General’s role as *parens patriae*, which may be necessary or appropriate to protect and promote the welfare of consumers;

(6) negotiate and enter into agreements for compliance by merchants with the provisions of this chapter; or

(7) publicize its own actions taken in the interests of consumers.

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**§ 28-3910. Investigatory powers of ~~Corporation Counsel~~ Attorney General.**

(a) In the course of an investigation to determine whether to seek relief under section 28-3909, the ~~Corporation Counsel~~ Attorney General for the District of Columbia may subpoena witnesses, administer oaths, examine an individual under oath, and compel production of records, books, papers, contracts, and other documents. Information obtained under this section is not admissible in a later criminal proceeding against the person who provides the evidence.

(b) A subpoena issued pursuant to subsection (a) of this section shall be issued in accordance with [§ 1-301.89c].

\* \* \*

1 **DRAFT COMMITTEE PRINT**  
2 **Committee of the Whole**  
3 **March 20, 2018**

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7  
8 **A BILL**

9  
10 **22-185**  
11 \_\_\_\_\_

12  
13 **IN THE COUNCIL OF THE DISTRICT OF COLUMBIA**  
14 \_\_\_\_\_

15  
16 To amend Chapter 39 of Title 28 of the District of Columbia Official Code to clarify the  
17 definition of a deceptive or unfair trade practice, to include as an enumerated deceptive or  
18 unfair trade practice the violation of an agreement with the Attorney General for the  
19 District of Columbia for compliance with the provisions of Chapter 39, to clarify that the  
20 equitable relief available in an action brought by the Attorney General for the District of  
21 Columbia for a violation of the District’s consumer protection laws includes an order  
22 requiring a violator to take affirmative action, including making restitution of money or  
23 property, and to increase the amount of the civil penalty for a violation of the District’s  
24 consumer protection laws in an action brought by the Attorney General for the District of  
25 Columbia.  
26

27 **BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this**  
28 **act may be cited as the “Consumer Protection Clarification and Enhancement Amendment Act of**  
29 **2018”.**

30 **Sec. 2. Chapter 39 of Title 28 of the District of Columbia Official Code is**  
31 **amended as follows:**

32 **(a) The table of contents is amended as follows:**

33 **(1) Strike the phrase “28-3904. Unlawful trade practices” and insert the phrase**  
34 **“28-3904. Unfair and deceptive trade practices” in its place.**

35 **(2) Strike the phrase “28-3910. Investigatory powers of Corporation Counsel.”**  
36 **and insert the phrase “28-3910. Investigatory powers of Attorney General.” in its place.**



37 (b) Section 28-3901 is amended by adding a new subsection (d) to read as follows:

38 “(d) In construing the term “unfair or deceptive trade practice” due consideration  
39 and weight shall be given to the interpretation by the Federal Trade Commission and the federal  
40 courts of the term “unfair or deceptive act or practice,” as employed in section 5(a) of An Act to  
41 create a Federal Trade Commission, to define its powers and duties, and for other purposes,  
42 September 26, 1914 (38 Stat. 719; 15 U.S.C. § 45(a)).”.

43 (c) Section 28-3904 is amended as follows:

44 (1) The section heading is amended to read as follows:

45 “28-3904. Unfair and deceptive trade practices.”.

46 (2) The lead-in language is amended by striking the phrase “a violation” and  
47 inserting the phrase “an unfair or deceptive trade practice in violation” in its place.

48 (3) Subsection (hh) is amended by striking the word “or”.

49 (4) Subsection (ii) is amended by striking the period and inserting the phrase “;  
50 or” in its place.

51 (5) A new subsection (jj) is added to read as follows:

52 “(jj) violate any agreement entered into pursuant to D.C. Official Code § 28-3909(c)(6).”.

53 (d) Section 28-3909 is amended as follows:

54 (1) Subsection (a) is amended to read as follows:

55 “(a) Notwithstanding any provision of law to the contrary, if the Attorney General for the  
56 District of Columbia has reason to believe that any person is using or intends to use any method,  
57 act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812,  
58 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Attorney  
59 General, in the name of the District of Columbia, may bring an action in the Superior Court of

60 the District of Columbia to obtain a temporary or permanent injunction prohibiting the use of the  
61 method, act, or practice and requiring the violator to take affirmative action, including the  
62 restitution of money or property. In any action under this section, the Attorney General shall not  
63 be required to prove damages and the injunction shall be issued without bond.

64 (2) Subsection (b) is amended to read as follows:

65 “(b) In addition, in an action under this section, the Attorney General for the District of  
66 Columbia may recover:

67 “(1) From a merchant who engaged in a first violation of section 28-3803, 28-  
68 3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3814, 28-3817, 28-3818, 28-3819, or  
69 28-3904, a civil penalty of not more than \$5,000 for each violation;

70 “(2) From a merchant who engaged in a first violation of section 28-3803, 28-  
71 3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3814, 28-3817, 28-3818, 28-3819, or  
72 28-3904 and who subsequently repeats the same violation, a civil penalty of not more than  
73 \$10,000 for each subsequent violation;

74 “(3) Economic damages; and

75 “(4) The costs of the action, and reasonable attorneys’ fees.”.

76 (3) Subsection (c) is amended as follows:

77 (A) The lead-in language is amended by striking the phrase “Corporation  
78 Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

79 (B) Paragraph (5) is amended by striking the phrase “Corporation  
80 Counsel’s” and inserting the phrase “Attorney General’s” in its place.

81 (e) Section 28-3910 is amended as follows:

82 (1) The section heading is amended by striking the phrase “Corporation Counsel”  
83 and inserting the phrase “Attorney General” in its place.

84 (2) Strike the phrase “Corporation Counsel” and insert the phrase “Attorney  
85 General for the District of Columbia” in its place.

86 Sec. 3. Fiscal impact statement.

87 The Council adopts the fiscal impact statement in the committee report as the fiscal  
88 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
89 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

90 Sec. 4. Effective date.

91 This act shall take effect following approval by the Mayor (or in the event of veto by the  
92 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
93 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
94 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
95 Columbia Register.